

THE HONORABLE JAMES L. ROBERT

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PACIFIC MARKET, INC., a Washington
corporation, and PACIFIC MARKET
INTERNATIONAL, L.L.C., a Washington
limited liability company, collectively d/b/a
PACIFIC MARKET INTERNATIONAL,

Plaintiffs,

vs.

THERMOS L.L.C., a Delaware limited
liability company,

Defendant.

Civil Action No. CV03-1261 JLR

AMENDED PRETRIAL ORDER

STATEMENT OF JURISDICTION

Jurisdiction is vested in this Court pursuant to 28 U.S.C. §§ 1338(a) and 1338(b), and
supplemental jurisdiction under 28 U.S.C. § 1367(a).

CLAIMS AND DEFENSES

Plaintiffs intend to pursue at trial the following claims: (i) violation of the unfair
competition laws of the United States, 15 U.S.C. § 1125(a) [Lanham Act §43(a)]; (ii) violation of
the Washington State Consumer Protection Act, R.C.W. § 19.86.020, *et seq*; and (iii) violation of

1 Washington's common law against unfair competition.

2 Defendant will pursue the following affirmative defense: estoppel by laches.

3 **ADMITTED FACTS**

4 The following facts are admitted by the parties:

5 1. Pacific Market, Inc. is a corporation of the State of Washington, having an
6 address of 2125 Western Avenue, Suite 501, Seattle, WA 98121. Pacific Market International,
7 L.L.C., is a limited liability company of the State of Washington, also having an address of 2125
8 Western Avenue, Suite 501, Seattle, WA 98121. Pacific Market, Inc. and Pacific Market
9 International, L.L.C. collectively do business as Pacific Market International ("PMI").

10 2. PMI manufactures and distributes the Stanley Classic Tall Bottle (the "Stanley
11 bottle").

12 3. Defendant Thermos, L.L.C. ("Thermos") is a Delaware limited liability company,
13 having a business address of 2550 West Golf Road, Suite 800, Rolling Meadows, IL 60008.

14 4. In 2001, Thermos began to develop a new product designed to compete with the
15 Stanley bottle. Thermos sometimes referred to this product development project internally as the
16 "Stanley Killer" project. This project resulted in the "Thermos Work Series Beverage Bottle"
17 (the "Work Series bottle").

18 5. The Stanley bottle and the Work Series bottle are both steel, vacuum-insulated
19 bottles.

20 6. The Stanley bottle and the Work Series bottle are both sold and transported in
21 interstate commerce.

22 7. The Stanley bottle and the Work Series bottle are both sold in the State of
23 Washington.

24 **The Plaintiffs contend as follows:**

25 1. In February 2002, PMI purchased the rights to the Stanley bottle, including all

1 intellectual property rights, from Aladdin Industries, L.L.C. (“Aladdin”).

2 2. PMI alleges that the following external features comprise the trade dress of the
3 Stanley Tall Classic (the “Stanley Trade Dress”):

- 4 a. a base of constant diameter substantially throughout its length;
- 5 b. a tapered or torpedo like overall look and appearance from bottom to top
6 generated from the top or cap being a diameter that is less than the body;
- 7 c. a body bearing a crinkled finish with a solid color;
- 8 d. a top or cap and band at the base of the body bearing the appearance of a
9 stainless steel finish; and
- 10 e. a band at the base of the top or cap with a color that substantially matches
11 the color of the body.

12 PMI asserts that features a, b, c, and d have been a part of the design of the Stanley bottle since at
13 least 1953, and that feature e has been a part of the design of the Stanley bottle since at least
14 1968.

15 3. The Stanley Trade Dress and the elements that comprise it are non-functional.
16 Neither the Stanley Trade Dress nor any of its individual elements yield a utilitarian advantage or
17 result from a comparatively simple or inexpensive method of manufacture. There are numerous
18 alternative designs to the Stanley Trade Dress and to the elements that comprise it, and neither
19 PMI nor its predecessors-in-interest have touted the utilitarian advantages of the Stanley Trade
20 Dress or the elements that comprise it.

21 4. The Stanley Trade Dress has acquired secondary meaning. The public associates
22 products that have the Stanley Trade Dress as having come from a single source. Because the
23 Stanley Trade Dress has acquired secondary meaning, it is a strong mark. PMI, and its
24 predecessors-in-interest have continuously and exclusively used all of the elements that comprise
25 the Stanley Trade Dress for decades.

1 5. Consumers are likely to be confused as to the source of the Work Series bottle
2 and/or as to whether there is a relationship or affiliation between the producer of the Work Series
3 bottle and the producer of the Stanley bottle.

4 6. The Work Series bottle replicates all of the elements of the Stanley Trade Dress.
5 Thermos's label does not serve to differentiate the bottles. Thermos's packaging does not
6 prevent or eliminate a likelihood of confusion.

7 7. In its production of the Work Series bottle, Thermos has willfully and
8 intentionally copied the Stanley Trade Dress.

9 8. The Stanley bottle and the Work Series bottle directly compete for the same
10 market. The marketing channels of the Work Series bottle and the Stanley bottle converge. Both
11 are sold to retail distributors, and, in some locations, are displayed side-by-side on store shelves,
12 often outside of their packaging.

13 9. A survey performed for Thermos shows that some people believe the Work Series
14 bottle is made by or associated with the manufacturer of the Stanley bottle.

15 10. Consumers exercise little care when purchasing products like the Work Series
16 bottle and the Stanley bottle.

17 11. PMI and Thermos already compete directly, making it irrelevant whether the
18 parties are likely to expand their product lines.

19 12. Consumers have actually been confused as to the source of the Work Series bottle
20 and/or as to whether there is a relationship or affiliation between the producer of the Work Series
21 bottle and the producer of the Stanley bottle.

22 13. PMI has suffered damages because of Thermos's infringement of its trade dress,
23 including lost profits due to lost sales, lost profits caused by price erosion, the costs of
24 advertising and marketing to prevent consumers from being confused, and damages to the
25 goodwill and reputation of the Stanley Trade Dress.

The Defendant contends as follows:

1. The product features that PMI claims as its trade dress are functional.
2. The product features that PMI claims as its trade dress are generic.
3. PMI's claimed trade dress has not acquired secondary meaning.
4. Thermos expended significant resources in developing the Thermos Work Series bottle. Thermos hired an outside design firm to assist it in developing a new design. Thermos also conducted focus groups of current Stanley owners to find out what they did and did not like about their Stanley bottles.
5. Thermos did not intend to copy the Stanley bottle, and in fact took steps to distinguish its Work Series bottle from the Stanley bottle.
6. Thermos's Work Series bottle is not a copy of the Stanley bottle. The Work Series bottle is readily distinguishable from the Stanley bottle.
7. Thermos's Work Series bottle is superior to the Stanley bottle in many ways. The Thermos Work Series bottle includes a taller, slimmer cup, a flared base for stability, black rubber "bumpers" around the top and bottom of the bottle, a sturdy rubber handle, and a non-skid rubber pad on the bottom. As a result of Thermos's superior vacuum technology, the Thermos Work Series bottle has a greater capacity than the Stanley bottle. Many of these features are called out on the packaging in which the Work Series bottle is sold.
8. Thermos had no intent to confuse consumers as to the source, sponsorship or affiliation of the Thermos Work Series bottle.
9. Consumers have not actually been confused as to the source, sponsorship or affiliation of the Thermos Work Series bottle.
10. Consumers are not likely to be confused as to the source, sponsorship or affiliation of the Thermos Work Series bottle.
11. Aladdin Industries failed to exercise due diligence in enforcing the claimed

1 trade dress rights.

2 12. PMI has suffered no damages as a result of any customer confusion between the
3 Thermos Work Series bottle and the Stanley bottle.

4 ISSUES OF LAW

5 The parties agree that the following issue of law is to be determined by the Court:

6 1. Whether PMI is entitled to injunctive relief as a result of Thermos's actions.

7 2. Whether or not the equitable defense of laches should be applied in this case and,
8 if so, whether or not it bars PMI's claims or some or all of the relief sought by PMI.

9 **The Plaintiffs contend the following are also issues of law to be determined by the Court:**

10 1. Whether Thermos's expert reports and related testimony are admissible.

11 2. Whether Thermos should be precluded from offering any evidence, statements,
12 and arguments that PMI must prove that consumers identify products bearing the Stanley Trade
13 Dress as having come from PMI, Aladdin, or Stanley to establish secondary meaning.

14 3. Whether Thermos should be precluded from offering any evidence, statements,
15 and arguments relating to name recognition surveys performed by Buntin Marketing Services.

16 4. Whether Thermos should be precluded from offering any evidence, statements,
17 and arguments relating to irrelevant differences in the Stanley and Thermos Work Series bottles.

18 5. Whether Thermos should be precluded from offering any evidence, statements,
19 expert testimony, and arguments relating to Thermos's financial information requested during
20 discovery but were not disclosed in a timely manner.

21 6. Whether Thermos should be precluded from offering any evidence, statements,
22 and arguments relating to any documents or things requested during discovery but were not
23 produced in a timely manner.

24 7. Whether Thermos should be precluded from offering any evidence, statements,
25 and arguments relating to the calculation of monetary damages based upon a reasonable royalty.

8. Whether Thermos should be precluded from offering any opinion testimony from its damages expert, David Nolte, beyond the stated scope of his area of expertise in accounting, finance, and the valuation of businesses and business assets.

9. Whether Thermos should be precluded from offering any testimony on its behalf regarding evidence concerning or supporting the affirmative defenses it has asserted that is new or different from its deposition testimony through its Fed. R. Civ. Pro. 30(b)(6) designee Anthony Seitz given on July 22, 2004.

10. Whether Thermos should be precluded from offering any evidence, statements, and arguments relating to a previous 1997 lawsuit involving Nippon Sanso, The Thermos Company, Starbucks, and Pacific Market Inc.

The Defendant contends the following are also issues of law to be determined by the Court:

1. Whether PMI's expert reports and related testimony are admissible.
2. Whether a generic product feature can be protectible as trade dress.
3. Whether a product that is a combination of functional elements can constitute trade dress.
4. Whether PMI's claimed trade dress is too broad and ambiguously defined to be protectible.
5. Whether PMI has sufficiently articulated the trade dress that PMI claims exists in the Stanley bottle.
6. Whether secondary meaning requires that a substantial percentage of consumers associate the claimed trade dress with products from a single, specific company, even if they cannot identify that company by name.
7. Whether PMI, in order to establish that its claimed trade dress is protectible, must prove the existence of secondary meaning in one or more nonfunctional features of its claimed trade dress.

1 8. Whether evidence of copying of product features, without evidence of intent to
2 confuse, is relevant to assessing likelihood of confusion.

3 9. Whether evidence of copying of product features is relevant to establish the
4 existence of secondary meaning.

5 10. Whether advertising by PMI or its predecessors that does not emphasize or call
6 attention to the claimed trade dress is relevant to establish the existence of secondary meaning.

7 11. Whether the presence of the THERMOS® trademark on Thermos's Work
8 Series bottle and packaging negates any claimed likelihood of confusion.

9 12. Whether Thermos's packaging negates any claimed likelihood of confusion.

10 13. Whether a consumer survey in which fewer than one percent of respondents
11 were confused about the source of Thermos's product can constitute evidence of actual
12 confusion.

13 14. Whether evidence concerning the ownership of Thermos L.L.C. is relevant and
14 admissible.

15 15. Whether newspaper articles concerning the Stanley bottle that were placed as a
16 result of solicitations by PMI's public relations firm are relevant to establish secondary
17 meaning in PMI's claimed trade dress.

18 16. Whether the testimony of PMI's customer service representatives about
19 consumer telephone calls regarding Thermos's products is admissible.

20 17. Whether PMI, having not purchased the goodwill attendant to the STANLEY®
21 trademark from Aladdin, possesses all of the intellectual property rights necessary to bring this
22 claim.

23 18. Whether PMI has no right to assert the claims in this lawsuit because it did not
24 own the claimed trade dress rights at the time it filed the lawsuit.
25

EXPERT WITNESSES

(a) Each party shall be limited to one expert witness on the issues of functionality, survey research, and damages.

(b) The names and address of the expert witnesses to be used by each party at the trial and the issue upon which each will testify is:

(1) On behalf of the Plaintiffs:

Cooper Woodring
13595 Bullion Court
North Padre Island
Corpus Christi, TX 78418

Mr. Woodring will testify as an expert witness on functionality. More specifically, Mr. Woodring will testify about the non-functionality of Stanley Trade Dress and the non-functionality of each of the elements that comprise Stanley Trade Dress. Mr. Woodring will testify about the opinions and conclusions set out in his expert report and will rebut the testimony of Thermos's fact witnesses on the subject of functionality.

Richard Troxel
205 Tom Fasio Trace
Hendersonville, NC 28739

Mr. Troxel will testify as an expert witness about damages. More specifically, Mr. Troxel will testify about the profits earned by Thermos from its infringing conduct, as well as actual damages that PMI incurred because of Thermos's infringing conduct. Mr. Troxel will testify about the opinions and conclusions set out in his expert report and in his expert rebuttal report. Mr. Troxel will also rebut the testimony of Thermos's damages witnesses, both fact and expert, and specifically will rebut the statements in Thermos's damages expert report.

1 James Hebert
2 c/o Hebert Research, Inc.
3 13629 NE Bel-Red Road
4 Bellevue, WA 98005

5 Mr. Hebert will testify as an expert witness in the field of survey research. More
6 specifically, Mr. Hebert will testify about the results of his survey of secondary meaning, and the
7 opinions and conclusions set out in his expert report and in his expert rebuttal report. Mr. Hebert
8 will rebut the testimony of Thermos's fact witnesses on the subject of secondary meaning.
9 Mr. Hebert will also rebut the testimony of Thermos's expert witness in the field of survey
10 research.

11 (2) On behalf of the Defendants:

12 David Nolte
13 Fulcrum Financial Inquiry
14 1000 Wilshire Boulevard, Suite 1650
15 Los Angeles, CA 90017

16 Mr. Nolte will testify as an expert witness about damages. Mr. Nolte will testify about
17 the opinions and conclusions set out in his expert report and his expert rebuttal report and the
18 matters discussed in his deposition, including his opinion as to a reasonable royalty rate and his
19 calculation of Thermos's actual profits on sales of the Thermos Work Series bottle after
20 appropriate deductions. Mr. Nolte will also rebut the testimony of PMI's damages witnesses,
21 both fact and expert, and specifically the statements in Plaintiffs' expert reports on damages.

22 Philip Johnson
23 Leo J. Shapiro and Associates LLC
24 455 East Illinois Street
25 Chicago, IL 60611

Mr. Johnson will testify as an expert witness in the field of survey research.
Mr. Johnson will testify about the opinions and conclusions set out in his expert report and his
expert rebuttal report, including the results of his survey showing that there is no likelihood of
confusion between Defendant's Work Series bottle and PMI's Stanley bottle, and the matters

discussed in his deposition. Mr. Johnson will also rebut the testimony of PMI's expert witness in the field of survey research.

OTHER WITNESSES

The names and addresses of witnesses, other than experts, to be used by each party at the time of trial and the general nature of the testimony of each are:

(a) On behalf of the Plaintiffs:

Robert Harris
c/o Pacific Market International
2125 Western Avenue
Seattle, WA 98121

Mr. Harris will testify about the history and structure of PMI; his knowledge of the market for vacuum-insulated food and beverage containers, including the market for vacuum-insulated steel food and beverage containers; the history and value of the Stanley bottle; PMI's acquisition of the rights to the Stanley bottle, including the right to the Stanley Trade Dress; the changes made to the Stanley bottle and its method of manufacture after its acquisition by PMI; the impact of Thermos's infringement on PMI; and the matters discussed at his deposition.

Anthony Seitz
c/o Thermos L.L.C.
2550 West Golf Road, Suite 800
Rolling Meadows, IL 60008

Mr. Seitz will testify about his knowledge of Thermos's corporate structure and the relationship between Thermos and its parent company, Nippon Sanso Corporation of Japan, the market(s) for vacuum-insulated bottles and any research performed by Thermos or at Thermos's request related to the market(s) for vacuum-insulated bottles, attempts by Thermos to compete in the "tradesman" or "blue-collar" segment of the vacuum-insulated bottle market, the development of the Work Series bottle, Thermos's intent to replicate the trade dress of the Stanley bottle, Thermos's intent to replicate the packaging of the Stanley bottle, all affirmative defenses asserted by Thermos, and the matters discussed at his deposition and the portion of the

1 Thermos 30(b)(6) deposition for which he served as Thermos's designee. Alternatively, Mr.
2 Seitz will testify about these same subjects via his videotaped deposition

3 Yasuhiro "Eddie" Murakami
4 c/o Thermos L.L.C.
5 2550 West Golf Road, Suite 800
6 Rolling Meadows, IL 60008

7 Mr. Murakami may testify (possible witness) about his knowledge of the development of
8 the Work Series bottle; Thermos's intent to replicate the trade dress of the Stanley bottle, the
9 non-functionality of the elements of the Stanley Trade Dress and its elements; all affirmative
10 defenses asserted by Thermos; and the matters discussed at his deposition, including the portion
11 of his deposition designated as Thermos 30(b)(6) deposition testimony. Alternatively, Mr.
12 Murakami will testify about these same subjects via his videotaped deposition.

13 Dianne Meister
14 c/o Meridan Associates
15 One East Erie Street, Suite 240
16 Chicago, IL 60622

17 Ms. Meister will testify via the videotaped deposition of the 30(b)(6) deposition of
18 Meridian Associates ("Meridian") for which she served as its designee. Ms. Meister will testify
19 about research performed by Meridian at Thermos's request related to the market(s) for vacuum-
20 insulated bottles, including the formulation of and results obtained from the "Thermos 'SKIL'
21 Branding Assessment," and other matters discussed in the Meridian deposition.

22 Michael Joss
23 c/o Joss Design Group
24 444 North Wells Street, Suite 201
25 Chicago, IL 60610

26 Mr. Joss will testify about Joss's involvement in the development of the Work Series
27 bottle, including the designs provided to Thermos by Joss; Thermos's reactions to those designs;
28 communications between Thermos and Joss related to the development of the Work Series
29 bottle; and other matters discussed at the Joss deposition. Alternatively, Mr. Joss will testify

1 about the same via the videotaped deposition of the 30(b)(6) deposition of Joss Design Group
2 (“Joss”) for which he served as its designee.

3 Lee Landan
4 c/o Landan Research
5 1415 West 22nd Street
6 Oak Brook, IL 60523

7 Mr. Landan will testify via the videotaped deposition of the 30(b)(6) deposition of
8 Landan Research (“Landan”) for which he served as its designee. Mr. Landan will testify about
9 Landan’s involvement in the development of the Work Series bottle, including the focus group
10 research performed by Landan at Thermos’s request; Thermos’s reactions to that research;
11 communications between Thermos and Landan related to the development of the Work Series
12 bottle and related to the focus group research performed by Landan at Thermos’s request; and
13 other matters discussed at the Landan deposition.

14 Scott Borto
15 3161 Anton Drive
16 Aurora, IL 60504

17 Mr. Borto will testify via his videotaped deposition. Mr. Borto will testify about his
18 knowledge of the market(s) for vacuum-insulated bottles and any research performed by
19 Thermos or at Thermos’s request related to the market(s) for vacuum-insulated bottles, attempts
20 by Thermos to compete in the “tradesman” or “blue-collar” segment of the vacuum-insulated
21 bottle market, the development of the Work Series bottle, Thermos’s intent to replicate the trade
22 dress of the Stanley bottle, Thermos’s intent to replicate the Stanley bottle packaging, the non-
23 functionality of the elements of the Stanley Trade Dress and its elements, and other matters
24 discussed at his deposition.
25

1 Mark Finstein
2 1495 Falcon Lane
3 Hoffman Estates, IL 60192

4 Mr. Finstein will testify via his videotaped deposition. Mr. Finstein will testify about his
5 knowledge of the market(s) for vacuum-insulated bottles and any research performed by
6 Thermos or at Thermos's request related to the market(s) for vacuum-insulated bottles, attempts
7 by Thermos to compete in the "tradesman" or "blue-collar" segment of the vacuum-insulated
8 bottle market, the development of the Work Series bottle, Thermos's intent to replicate the trade
9 dress of the Stanley bottle, Thermos's intent to replicate the Stanley bottle packaging, and other
10 matters discussed at his deposition.

11 John Bergeron
12 4003 Neuse Court
13 Greensboro, NC 27407

14 Mr. Bergeron will testify via his videotaped deposition. Mr. Bergeron will testify about
15 his knowledge of the market(s) for vacuum-insulated bottles and any research performed by
16 Thermos or at Thermos's request related to the market(s) for vacuum-insulated bottles, attempts
17 by Thermos to compete in the "tradesman" or "blue-collar" segment of the vacuum-insulated
18 bottle market, the development of the Work Series bottle, Thermos's intent to replicate the trade
19 dress of the Stanley bottle, and other matters discussed at his deposition.

20 John Lanman
21 2607 Gleneagles Drive
22 Naperville, IL 60565

23 Mr. Lanman will testify via his videotaped deposition. Mr. Lanman will testify about his
24 knowledge of the market(s) for vacuum-insulated bottles and any research performed by
25 Thermos or at Thermos's request related to the market(s) for vacuum-insulated bottles, attempts
by Thermos to compete in the "tradesman" or "blue-collar" segment of the vacuum-insulated
bottle market, the development of the Work Series bottle, Thermos's intent to replicate the trade
dress of the Stanley bottle, and other matters discussed at his deposition.

1 Michael Bross
2 c/o Pacific Market International
3 2125 Western Avenue
4 Seattle, WA 98121

5 Mr. Bross may testify (possible witness) about the history and value of the Stanley bottle;
6 PMI's marketing and sales efforts related to the Stanley bottle; his knowledge of the market for
7 vacuum-insulated food and beverage containers, including the market for vacuum-insulated steel
8 food and beverage containers; his interactions with representatives of retail outlets regarding the
9 Stanley bottle and Work Series bottle; the impact of Thermos's infringement on PMI; and the
10 matters discussed at his deposition as a 30(b)(6) designee for PMI.

11 Marc Platt
12 c/o Pacific Market International
13 2125 Western Avenue
14 Seattle, WA 98121

15 Mr. Platt may testify (possible witness) about PMI's acquisition of the rights to the
16 Stanley bottle, including the right to its trade dress, and the matters discussed at his deposition as
17 a 30(b)(6) designee for PMI.

18 Michael Donnelly
19 c/o Aladdin-Pacific Market International
20 5300 Maryland Way, Suite 103
21 Brentwood, TN 37029

22 Mr. Donnelly may testify (possible witness) about the history and value of the Stanley
23 bottle; his knowledge of the market for vacuum-insulated food and beverage containers,
24 including the market for vacuum-insulated steel food and beverage containers; PMI's sales and
25 marketing efforts related to the Stanley bottle; his interactions with representatives of retail
outlets regarding the Stanley bottle and Work Series bottle; the impact of Thermos's
infringement on PMI; and the matters discussed at his deposition as a 30(b)(6) designee for PMI.

1 William Sims
2 c/o Aladdin-Pacific Market International
3 5300 Maryland Way, Suite 103
4 Brentwood, TN 37029

5 Mr. Sims may testify (possible witness) about the history and value of the Stanley bottle;
6 the design of the Stanley bottle; the functional and non-functional elements of the Stanley bottle,
7 both historical and present; the method of manufacture of the Stanley bottle, both historical and
8 present; any changes made to the Stanley bottle after 1984; changes made to the Stanley bottle
9 and its method of manufacture after its acquisition by PMI; and the matters discussed at his
10 deposition as a 30(b)(6) designee for PMI.

11 Tami Fujii
12 c/o Pacific Market International
13 2125 Western Avenue
14 Seattle, WA 98121

15 Ms. Fujii may testify (possible witness) about the history and value of the Stanley bottle;
16 her knowledge of the market for vacuum-insulated food and beverage containers, including the
17 market for vacuum-insulated steel food and beverage containers; PMI's marketing and sales
18 efforts related to the Stanley bottle; her knowledge of Aladdin Industries, L.L.C.'s marketing and
19 sales efforts related to the Stanley bottle; the impact of Thermos's infringement on PMI; and the
20 matters discussed at her deposition.

21 Vivian Vergatos
22 c/o Aladdin-Pacific Market International
23 5300 Maryland Way, Suite 103
24 Brentwood, TN 37029

25 Ms. Vergatos may testify (possible witness) about consumer telephone calls received by
PMI regarding Thermos's products, and the matters discussed at her deposition as a 30(b)(6)
designee for PMI.

1 Belinda Steele
2 c/o Aladdin-Pacific Market International
3 5300 Maryland Way, Suite 103
4 Brentwood, TN 37029

5 Ms. Steele may testify (possible witness) about consumer telephone calls received by
6 PMI regarding Thermos's products.

7 Fred Meyer
8 c/o Aladdin Industries, L.L.C.
9 2121 San Jacinto Street, Suite 800, LB5
10 Dallas, TX 75201

11 Mr. Meyer may testify (possible witness) about the history and value of the Stanley
12 bottle; his knowledge of the market for vacuum-insulated food and beverage containers,
13 including the market for vacuum-insulated steel food and beverage containers; Aladdin
14 Industries, L.L.C.'s marketing and sales efforts related to the Stanley bottle; the ownership of the
15 rights to the Stanley bottle, including the Stanley Trade Dress by Aladdin Industries, L.L.C.; the
16 sale of the rights to the Stanley bottle, including the Stanley Trade Dress to PMI; and the matters
17 discussed at his deposition.

18 Jack Anderson
19 Hornall Anderson Design Works
20 1008 Western Avenue, Suite 600
21 Seattle, WA 98104

22 Mr. Anderson may testify (possible witness) about the look and feel of the Stanley bottle
23 and its packaging, as well as any other matters discussed at his deposition.

24 Christopher Doyle
25 Doyle Public Relations
609 Garden Park Drive
Roseville, CA 95678

Mr. Doyle may testify (possible witness) about the public recognition of the appearance
of the Stanley bottles. Alternatively, Mr. Doyle may testify about the same subject via the video
of the 30(b)(6) deposition of Doyle Public Relations for which he served as its designee.

Any witness identified by Thermos.

1 (b) On behalf of Defendant:

2 Michael Joss
3 444 N. Wells Street
4 Chicago, IL 60610

5 Mr. Joss will testify as to the design and development of the Work Series bottle and the
6 matters discussed in his deposition. Alternatively, Mr. Joss will testify via his deposition.

7 Scott Borto
8 3161 Anton
9 Aurora, IL

10 Mr. Borto may testify (possible witness) as to the design and development of the Work
11 Series bottle, and the matters discussed in his deposition. Alternatively, Mr. Borto may testify
12 (possible witness) via his deposition.

13 Diane Meister
14 c/o Meridan Associates
15 One East Erie Street, Suite 240
16 Chicago, IL 60622-2737

17 Ms. Meister may testify (possible witness) concerning research performed by her on
18 behalf of Thermos, and the matters discussed in her deposition. Alternatively, Ms. Meister
19 may testify (possible witness) via her deposition.

20 Eddie Murakami
21 Thermos L.L.C.
22 2550 West Golf Road, Suite 800
23 Rolling Meadows, IL 60008

24 Mr. Murakami will testify concerning the design and development of the Work Series
25 bottle, the methods used to manufacture Thermos® bottles, and the matters discussed in his
depositions.

26 John Lanman
27 2607 Gleneagles Drive
28 Naperville, IL 60565

29 Mr. Lanman may testify (possible witness) concerning the design, development,
30 marketing and sale of the Work Series bottle; the insulated bottle industry and market; historical
31 insulated bottle designs; and the matters discussed in his deposition. Alternatively, Mr. Lanman

1 may testify (possible witness) via his deposition.

2 Lee Landan
3 1415 W. 22nd Street
4 Oak Brook, IL 60523

5 Mr. Landan may testify (possible witness) as to the research and studies performed by
6 him on behalf of Thermos, and the matters discussed in his deposition. Alternatively, Mr.
7 Landan may testify (possible witness) via his deposition.

8 Mark Finstein
9 1495 Falcon Lane
10 Hoffman Estates, IL 60192

11 Mr. Finstein may testify (possible witness) as to the design, development and sale of
12 the Work Series bottle. Alternatively, Mr. Finstein may testify (possible witness) via his
13 deposition.

14 Anthony Seitz
15 Thermos, LLC
16 2550 West Golf Road, Suite 800
17 Rolling Meadows, IL 60008

18 Mr. Seitz will testify as to the design, development, marketing and sale of the Work
19 Series bottle; the methods used to manufacture Thermos® bottles; the functionality of certain
20 features of the Work Series bottle; the insulated bottle industry and market; historical insulated
21 bottle designs; and the matters discussed in his depositions.

22 Francisco J. Muci
23 550 S. Whitehall Drive
24 Palatine, IL 60007

25 Mr. Muci may testify (possible witness) concerning an encounter with Robert Harris at
the 2003 housewares show. Alternatively, Mr. Muci may testify (possible witness) via his
deposition.

1 Robert Wagner
2 Thermos L.L.C.
3 2550 West Golf Road, Suite 800
4 Rolling Meadows, IL 60008

5 Mr. Wagner may testify (possible witness) concerning the insulated bottle industry and
6 market, the performance of the parties within that market, the Thermos® trademark, and
7 historical insulated bottle designs.

8 John Bergeron
9 4003 Neuse Court
10 Greensboro, NC 27407

11 Mr. Bergeron may testify (possible witness) via his deposition about the matters
12 discussed in his deposition, including the insulated bottle industry and market, historical
13 insulated bottle designs, and the design and development of the Work Series bottle.

14 Ken Brons
15 Thermos L.L.C.
16 2550 West Golf Road, Suite 800
17 Rolling Meadows, IL 60008

18 Mr. Brons may testify (possible witness) concerning Thermos's cost accounting system;
19 sales, costs and profits related to the Work Series bottle; and the matters discussed in his
20 deposition. Alternatively, Mr. Brons may testify (possible witness) via his deposition.

21 Michael Bross
22 Senior Vice President
23 Pacific Market, Inc.
24 2125 Western Avenue
25 Seattle, WA 98121

Mr. Bross may testify (possible witness) about the insulated bottle industry and
marketing and sales of the Stanley bottle. Alternatively, Mr. Bross may testify (possible
witness) via his deposition.

Jeffrey Buntin
The Buntin Group
1001 Hawkins Street
Nashville, TN 3702

1 Mr. Buntin may testify (possible witness) via his deposition.

2 Christopher Doyle
3 Doyle Public Relations
4 609 Garden Park Drive
5 Roseville, CA 95678

6 Mr. Doyle may testify (possible witness) via his deposition.

7 Michael Donnelly
8 Aladdin-Pacific Market International
9 5300 Maryland Way, Suite 103
10 Brentwood, TN 37029

11 Mr. Donnelly may testify (possible witness) about the insulated bottle industry and
12 marketing and sales of the Stanley bottle. Alternatively, Mr. Donnelly may testify (possible
13 witness) via his deposition.

14 Tami Fujii
15 Pacific Market, Inc.
16 2125 Western Avenue
17 Seattle, WA 98121

18 Ms. Fujii may testify (possible witness) about the insulated bottle industry and marketing
19 and sales of the Stanley bottle. Alternatively, Ms. Fujii may testify (possible witness) via her
20 deposition.

21 Wendy Lane
22 Lane Marketing
23 905 SW 16th
24 Portland, OR 97205

25 Ms. Lane may testify (possible witness) via her deposition.

Marc Platt
Pacific Market, Inc.
2125 Western Avenue
Seattle, WA 98121

Mr. Platt may testify (possible witness) about the acquisition of the Stanley line of
products from Aladdin Industries and the matters discussed in his deposition. Alternatively, Mr.
Platt may testify (possible witness) via his deposition.

1 William Sims
2 c/o Aladdin-Pacific Market International
3 5300 Maryland Way, Suite 103
4 Brentwood, TN 37029

5 Mr. Sims may testify (possible witness) via his deposition.

6 Vivian Vergatos
7 c/o Aladdin-Pacific Market International
8 5300 Maryland Way, Suite 103
9 Brentwood, TN 37029

10 Ms. Vergatos may testify (possible witness) via deposition.

11 Jack Anderson
12 Hornall Anderson Design Works
13 1008 Western Avenue, Suite 600
14 Seattle, WA 98104

15 Mr. Anderson may testify (possible witness) about the matters discussed in his
16 deposition.

17 Rick Dias
18 Vice President, Marketing
19 Thermos L.L.C.
20 2550 West Golf Road, Suite 800
21 Rolling Meadows, IL 60008

22 Mr. Dias may testify (possible witness) about the marketing and sales of the Work Series
23 bottle and the insulated bottle market.

24 Greg Andress
25 2215 Oakwood Road
Franklin, TN 37064

Mr. Andress may testify (possible witness) about Aladdin's marketing and sales of the
Stanley bottle, the history of the Stanley bottle, and his knowledge of the insulated bottle
industry and market.

John Golden
Customer Service Manager
Thermos L.L.C.
355 Thermos Road
Batesville, MS 38606

Mr. Golden may testify (possible witness) about the types of calls received by Thermos customer service that were referenced in the deposition of Tony Seitz as Thermos's 30(b)(6) designee.

Kay Bivins
Customer Service Representative
Thermos L.L.C.
355 Thermos Road
Batesville, MS 38606

Ms. Bivens may testify (possible witness) about the types of calls received by Thermos customer service that were referenced in the deposition of Tony Seitz as Thermos's 30(b)(6) designee.

Brian Shea
Chief Financial Officer
Pacific Market, Inc.
Seattle, WA

Mr. Shea may testify (possible witness) about PMI's cost accounting system and sales, costs and profits relating to the Stanley bottle.

Any witness identified by PMI.

EXHIBITS LIST

The parties have attached lists indicating their stipulations or objections to the authenticity and/or admissibility of the exhibits offered by the opposing party.¹

Plaintiffs' Exhibits:

- 1 Withdrawn
- 2 A representative sample of Thermos's Work Series beverage bottle
- 3 Withdrawn
- 4 A representative sample of the packaging of Thermos's Work Series beverage bottle

¹ The parties acknowledge that there are duplicative items contained in Plaintiffs' and Defendant's exhibit lists. The parties commit to work together in an effort to eliminate duplicative items prior to trial, to the extent possible.

- 5 Representative samples of the Stanley Tall Classic bottle from 1920 to 2002, which were produced by Aladdin Industries, L.L.C. on July 15, 2004, at its 30(b)(6) deposition pursuant to a Subpoena Duces Tecum issued by Thermos, marked as "Meyer Exhibits"
- 5A- Meyer Exhibit 1055
- 5B- Meyer Exhibit 1056
- 5C- Meyer Exhibit 1057
- 5D- Meyer Exhibit 1058
- 5E- Meyer Exhibit 1059
- 5F- Meyer Exhibit 1060
- 5G- Meyer Exhibit 1061
- 5H- Meyer Exhibit 1062
- 5I- Meyer Exhibit 1063
- 6 A representative sample of the Stanley Classic Tall bottle
- 7 Withdrawn
- 8 The Thermos Rock bottle and its packaging submitted to the Court with PMI's Opposition to Thermos' Motion for Summary Judgment
- 9 A representative sample of Thermos's "Stainless Steel Bottle" model number 2570
- 10 A representative sample of the packaging of Thermos's "Stainless Steel Bottle" model number 2570
- 11 Representative samples of the packaging of the Stanley bottle, including those submitted to the Court with PMI's Opposition to Thermos' Motion for Summary Judgment.
- 11A- Green Stanley Tall Classic Packaging
- 11B- Orange Stanley Tall Classic Packaging
- Withdrawn
- 12 The 1953 Stanley bottle submitted to the Court PMI's Opposition to Thermos' Motion for Summary Judgment
- 13 The 1982 Stanley bottle submitted to the Court with PMI's Opposition to Thermos' Motion for Summary Judgment
- 14 Photograph of Stanley bottles from 1953 to present submitted to the Court with PMI's Opposition to Thermos' Motion for Summary Judgment
- 15 Photograph of Stanley bottles and Thermos Work Series bottles outside of their packaging on store shelves
- 16 The Asset Purchase Agreement between Aladdin Industries and PMI
- 17 The Second Amended Asset Purchase Agreement between Aladdin Industries and PMI
- 18 The Restated Bill of Sale to the Asset Purchase Agreement between Aladdin Industries and PMI

- 19 The historical Stanley bottle advertising submitted as Exhibit 8 to the Declaration of Shannon McMinimee in Support of PMI's Opposition to Defendant's Motion for Summary Judgment, which was produced by Aladdin Industries, L.L.C. on July, 15, 2004, at its 30(b)(6) deposition pursuant to a Subpoena Duces Tecum issued by Thermos
- 20 Exhibit 1 to the Declaration of Tami Fujii in Support of PMI's Opposition to Defendant's Motion for Summary Judgment
- 21 Meister Deposition Exhibit No. 2 – Steel VacuumWare – Thermos “SKIL” Branding Assessment (dated July 1996)
- 22 Meister Deposition Exhibit No. 3 – Positioning the Thermos Vacuum Container Line (dated March 17, 1996)
- 23 Meister Deposition Exhibit No. 4 – Category Competition
- 24 Meister Deposition Exhibit No. 5 – Long Term Positioning/Bus. Strategy Handwritten Notes (dated March 20, 1996)
- 25 Meister Deposition Exhibit No. 6 – Meridian Associates, Inc. Proposal Outline: Vacuumware Long-Term Market Positioning Strategy Development for The Thermos Company (dated March 21, 1996)
- 26 Meister Deposition Exhibit No. 7 – Conclusions (dated May 14, 2004)
- 27 Joss Deposition Exhibit No. 10 – Handwritten Document with Attachment
- 28 Joss Deposition Exhibit No. 11 – Memo to John Van Akkern of Joss Design regarding Thermos Bottle Samples (dated February 22, 2001)
- 29 Joss Deposition Exhibit No. 12 – “Stanley Killer” Vacuum Insulated Quart Bottle Product Design Program by Joss Design (dated June 6, 2001)
- 30 Joss Deposition Exhibit No. 13 – “Thermos Stanley Killer Phase 1” (dated July 10, 2001)
- 31 Joss Deposition Exhibit No. 14 – Color Drawings
- 32 Joss Deposition Exhibit No. 15 – Email from Tony Seitz to Kevin S (dated July 12, 2001)
- 33 Joss Deposition Exhibit No. 16 – Email from Tony Seitz to Shouji Toida (dated July 25, 2001)
- 34 Joss Deposition Exhibit No. 17 – Fax Transmittal from Kevin Short to Tony Seitz (dated July 23, 2001)
- 35 Joss Deposition Exhibit No. 18 – Email from Eddie Murakami to Kevin S (dated August 17, 2001)
- 36 Joss Deposition Exhibit No. 19 – Fax Transmittal from Tony Seitz to Thermos (dated August 20, 2001)
- 37 Joss Deposition Exhibit No. 20 – Reduced Drawings
- 38 Joss Deposition Exhibit No. 21 – Blueprint
- 39 Joss Deposition Exhibit No. 22 – Blueprint

- 40 Withdrawn
- 41 Withdrawn
- 42 Withdrawn
- 43 Withdrawn
- 44 Withdrawn
- 45 Withdrawn
- 46 Withdrawn
- 47 Withdrawn
- 48 Withdrawn
- 49 Withdrawn
- 50 Borto Deposition Exhibit No. 34 – Email from John Lanman to Shouji Toida (dated January 10, 2001)
- 51 Borto Deposition Exhibit No. 35 – Stanley Attack Plan Recommendation (dated January 10, 2001)
- 52 Withdrawn
- 53 Borto Deposition Exhibit No. 37 – Handwritten Notes (dated February 13, 2001)
- 54 Borto Deposition Exhibit No. 38 – Thermos USA VW New Product Development
- 55 Borto Deposition Exhibit No. 39 – Meridian Associates Steel Vacuumware – Thermos “Skil” Branding Assessment (dated July 1996)
- 56 Borto Deposition Exhibit No. 40 – The Thermos Company New Product Development (dated March 21, 2001)
- 57 Borto Deposition Exhibit No. 41 – Stanley Killer Research Project
- 58 Borto Deposition Exhibit No. 42 – Email from Tony Seitz to Kevin S (dated July 12, 2001)
- 59 Borto Deposition Exhibit No. 43 – Fax from Tony Seitz to John Van Akkren (dated July 23, 2001)
- 60 Borto Deposition Exhibit No. 44 – Memo from J. Lanman to S. Toida, et al. (dated July 18, 2001)
- 61 Borto Deposition Exhibit No. 45 – Email from Tony Seitz to Shouji Toida, et al (dated July 25, 2001)
- 62 Borto Deposition Exhibit No. 46 – The Landan Group presentation “Thermos Vacuumware “Stanley Killer” Quart Bottle Consumer Research Exploratory Final Report (dated August 20, 2001)
- 63 Withdrawn

- 64 Borto Deposition Exhibit No. 48 – Memo from J. Lanman to S. Toida, et al. (dated September 19, 2001)
- 65 Borto Deposition Exhibit No. 49 – Email from John Lanman to John Bergeron, et al. (dated October 25, 2001)
- 66 Borto Deposition Exhibit No. 50 – Handwritten notes
- 67 Borto Deposition Exhibit No. 51 – The Thermos Company New Project Expenditure Proposal Summary (dated October 9, 2001)
- 68 Borto Deposition Exhibit No. 52 – Handwritten notes (dated November 20, 2001)
- 69 Borto Deposition Exhibit No. 53 – Thermos Vacuumware Product Proposal Summary (dated December 3, 2001)
- 70 Borto Deposition Exhibit No. 54 – Email from Tim Smith to Mark Finstein (dated December 21, 2001)
- 71 Borto Deposition Exhibit No. 55 – Thermos New Product Development Meeting (dated January 25, 2002)
- 72 Borto Deposition Exhibit No. 56 – Email to Tony Seitz (dated January 26, 2002)
- 73 Borto Deposition Exhibit No. 57 – Email from Tony Seitz to John Lanman (dated March 5, 2002)
- 74 Borto Deposition Exhibit No. 58 – Email from John Bergeron to Tony Seitz
- 75 Borto Deposition Exhibit No. 59 – Letter from Tony Seitz and Scott Borto to All Thermos Sales Representatives (dated April 29, 2002)
- 76 Borto Deposition Exhibit No. 60 – Letter from Tony Seitz and Scott Borto to All Thermos Sales Representatives (dated August 1, 2002)
- 77 Landan Deposition Exhibit No. 62 – Handwritten Document (dated July 16, 2001)
- 78 Landan Deposition Exhibit No. 63 – The Landan Group Inc. Thermos Office Accessories New Product Concepts Exploratory (dated July 19, 2001)
- 79 Landan Deposition Exhibit No. 64 – Invoice from The Landan Group to Tony Seitz (dated July 27, 2001)
- 80 Landan Deposition Exhibit No. 65 – The Landan Group Thermos Vacuumware “Stanley Killer” Quart Bottle Consumer Research Exploratory Final Report (dated August 20, 2001)
- 81 Landan Deposition Exhibit No. 66 – Letter from Tony Seitz and Scott Borto to All Thermos Sales Representatives (dated April 29, 2002)
- 82 Landan Deposition Exhibit No. 67 – Thermos Brand Equity Study Final Presentation (dated July 29, 2002)
- 83 Lanman Deposition Exhibit No. 69 – Color Thermos Work Series Bottles brochures
- 84 Lanman Deposition Exhibit No. 70 – Memo from Craig Weeks to Mark Finstein, John Lanman, Lisa Osiecki (dated May 16, 1998)

- 1 85 Lanman Deposition Exhibit No. 71 – Memo from Craig Weeks to Doug Blair and Mark
Finstein (dated May 28, 1998)
- 2 86 Lanman Deposition Exhibit No. 72 – Memo from M. Millies to Y. Satomi, et al. (dated
3 February 5, 1999)
- 4 87 Lanman Deposition Exhibit No. 73 – Memo from John Lanman to John Bergeron
(dated June 4, 1999)
- 5 88 Lanman Deposition Exhibit No. 74 – Email from Shouji Toida to Mark Finstein (dated
January 4, 2001)
- 6 89 Lanman Deposition Exhibit No. 75 – Email from John Lanman to Shouji Toida (dated
7 January 14, 2001)
- 8 90 Lanman Deposition Exhibit No. 76 – Email from Mark Finstein to Shouji Toida (dated
January 4, 2001)
- 9 91 Lanman Deposition Exhibit No. 77 – Email from T. Moroishi to Mark Finstein (dated
February 28, 2001)
- 10 92 Lanman Deposition Exhibit No. 78 – Email from John Van Akkeren to John Lanman
11 (dated April 4, 2004)
- 12 93 Lanman Deposition Exhibit No. 79 – Email from Tony Seitz to Moro (dated April 6,
2001)
- 13 94 Lanman Deposition Exhibit No. 80 – Thermos Vacuumware Product Development
Brief (dated May 22, 2001)
- 14 95 Lanman Deposition Exhibit No. 81 – Memo from J. Lanman to S. Toida, et al. (dated
15 May 18, 2001)
- 16 96 Lanman Deposition Exhibit No. 82 – Email from John Lanman to John Bergeron (dated
February 13, 2002)
- 17 97 Lanman Deposition Exhibit No. 83 – Email from Tim Smith to John Bergeron (dated
October 11, 2002)
- 18 98 Lanman Deposition Exhibit No. 84 – Thermos Product Development Summary (dated
19 October 16, 2002)
- 20 99 Lanman Deposition Exhibit No. 85 – Email from John Adler to Josh Adler (dated
October 23, 2002)
- 21 100 Finstein Deposition Exhibit No. 87 – Email from Mark Finstein to John Lanman (dated
October 30, 2001)
- 22 101 Finstein Deposition Exhibit No. 88 – Mark’s Promo Recommendations
- 23 102 Finstein Deposition Exhibit No. 89 – Email from Shouji Toida to John Bergeron (dated
October 5, 2000)
- 24 103 Finstein Deposition Exhibit No. 90 – Email from Mark Finstein to T Moroishi (dated
25 February 28, 201)

- 1 104 Finstein Deposition Exhibit No. 91 – Email from Frank McCosh to Mark Finstein, et al.
(dated April 5, 2001)
- 2 105 Finstein Deposition Exhibit No. 92 – Email from Mark Finstein to Ken Potter (dated
3 September 11, 2001)
- 4 106 Finstein Deposition Exhibit No. 93 – Handwritten notes
- 5 107 Finstein Deposition Exhibit No. 94 – Memo from Mark Finstein to John Bergeron
(dated January 30, 2002)
- 6 108 Finstein Deposition Exhibit No. 95 – Ranger Work Bottle Sales Plan (dated February
7 2002)
- 8 109 Finstein Deposition Exhibit No. 96 – Letter from Mark to Mike Riehle (dated February
9 11, 2002)
- 10 110 Finstein Deposition Exhibit No. 97 – Email from Josh Adler to John Bergeron, et al
(dated October 22, 2002)
- 11 111 Finstein Deposition Exhibit No. 98 – Email from Josh Adler to Josh Adler (dated
12 October 23, 2002)
- 13 112 Seitz Deposition Exhibit No. 99 – Handwritten notes (dated January 31, 2001)
- 14 113 Seitz Deposition Exhibit No. 100 – Memo from Tony Seitz to John Van Akkern (dated
15 February 22, 2001)
- 16 114 Seitz Deposition Exhibit No. 101 – Memo from J. Lanman to S. Toida, et al. (dated
17 May 18, 2001)
- 18 115 Seitz Deposition Exhibit No. 102 – Thermos Catalog (1996 Vacuum Bottles)
- 19 116 Seitz Deposition Exhibit No. 103 – Thermos Vacuumware “Stanley Killer” Quart
20 Bottle Consumer Research Exploratory (dated July 18, 2001)
- 21 117 Seitz Deposition Exhibit No. 104 – Email from John Lanman to Tony Seitz (dated
22 August 23, 2001)
- 23 118 Withdrawn
- 24 119 Seitz Deposition Exhibit No. 106 – Thermos Work Bottle Teaser Campaign (Draft
25 dated May 31, 2002)
- 120 Murakami Deposition Exhibit No. 107 – Email from John Lanman to Tony Seitz (dated
August 23, 2001)
- 121 Murakami Deposition Exhibit No. 108 – Hand drawn sketches with attachments
- 122 Murakami Deposition Exhibit No. 109 – Stanley Killer Vacuum Bottle Concept
Drawing Comment (September 24, 2001)
- 123 Murakami Deposition Exhibit No. 110 – Email written in Conji
- 124 Murakami Deposition Exhibit No. 111 – Letter from Masato Hirose to Eddie Murakami
written on Conji (dated September 27, 2004)
- 125 Murakami Deposition Exhibit No. 112 – Aladdin Killer Bottle Price (TTM) (dated
September 28, 2001)

- 126 Withdrawn
- 127 Murakami Deposition Exhibit No. 114 – Email from Eddie Murakami to Tony Seitz (dated October 3, 2001)
- 128 Murakami Deposition Exhibit No. 115 – The Thermos Company New Project Expenditure Proposal Summary (dated October 9, 2001)
- 129 Murakami Deposition Exhibit No. 116 – Email from Eddie Murakami to Tony Seitz (dated November 9, 2001)
- 130 Murakami Deposition Exhibit No. 117 – Email from Eddie Murakami to Tony Seitz (dated November 26, 2001)
- 131 Withdrawn
- 132 Murakami Deposition Exhibit No. 119 – Email from Eddie Murakami to Tony Seitz (dated May 31, 2002)
- 133 Withdrawn
- 134 Withdrawn
- 135 Murakami Deposition Exhibit No. 122 – Hand drawings
- 136 Murakami Deposition Exhibit No. 123 – Cost document
- 137 Murakami Deposition Exhibit No. 124 – Hand drawings
- 138 Murakami Deposition Exhibit No. 125 – Email from Eddie Murakami to Kevin (dated August 17, 2001)
- 139 Murakami Deposition Exhibit No. 126 – 1997 Thermos Vacuumware Catalog
- 140 Murakami Deposition Exhibit No. 127 – 1998 Thermos Vacuumware Catalog
- 141 Murakami Deposition Exhibit No. 128 – Thermos Vacuum & Insulated Containers Catalog
- 142 Murakami Deposition Exhibit No. 129 – Thermos 2004 Catalog
- 143 Murakami Deposition Exhibit No. 130 – Thermos Nissan 2004 Catalog
- 144 The Expert Report of Cooper Woodring
- 145 The vacuum insulated bottles depicted in the Expert Report of Cooper Woodring (PMI Exhibits 2,6, 13) and:
 - 145A -Thermos 2570
 - 145B -Thermos 2330
 - 145C -Thermos 2410
 - 145D -Thermos NCB18L
 - 145E -Thermos 2340
 - 145F -Thermos 2310L
 - 145G -Thermos 2510R
 - 145H -Thermos 2590

- 145I -Thermos 60/100
- 145J -Thermos 3410
- 145K -Thermos 3610BLW4
- 145L -Thermos 7021W
- 145M -Thermos 60-100
- 145N -Thermos Nissan FBC1300L
- 145O -Thermos Nissan NCD-106MO
- 145P -Thermos Nissan NCD-10
- 145Q -Megatrade Mega MAXX
- 145R -Ethel miGo
- 145S -Pacific Cornetta MC-3103
- 145T -Pacific Cornetta MC-3131
- 146 Woodring Expert Report Exhibit No. 1 – The Industrial Designers Society of America’s Definition of Industrial Design
- 147 Woodring Expert Report Exhibit No. 2 – Woodring’s Curriculum Vitae
- 148 Woodring Expert Report Exhibit No. 3 – Woodring’s Testimony During Deposition or at Trial During the Past Four Years
- 149 Woodring Expert Report Exhibit No. 4 – A Photograph of the Stanley Classic Tall Bottle
- 150 Withdrawn
- 151 Woodring Expert Report Exhibit No. 6 – A Photograph of the Thermos Work Series 2520 (Tall Bottle)
- 152 Withdrawn
- 153 Woodring Expert Report Exhibit No. 8 – A Grid Showing the 36 Comparisons Between a Stanley Design Element or Combination of Elements and an Individual Factor to be Considered in Determining Functionality
- 154 Woodring Expert Report Exhibit No. 9 – A Photograph of the Stanley Classic Tall Bottle with Each Element of its Trade Dress Identified
- 155 Woodring Expert Report Exhibit No. 10 – A Photograph of Four Alternate Designs to Stanley’s “A base of constant diameter substantially throughout its length”
- 156 Woodring Expert Report Exhibit No. 11 – A Photograph of the Thermos 2590 Blow Molded Vacuum Bottle
- 157 Woodring Expert Report Exhibit No. 12 – A Photograph of William Stanley’s First “Stanley Vacuum Bottle” from American Style
- 158 Woodring Expert Report Exhibit No. 13 – A Photograph of a 22 Year Old Stanley Classic Tall Bottle
- 159 Woodring Expert Report Exhibit No. 14 – A Photograph of Four Alternate Designs to Stanley’s “A body bearing a crinkled finish with a solid color”

- 1 160 Woodring Expert Report Exhibit No. 15 – A Photograph of the Thermos 2570, the
2 Thermos Work Series and Stanley’s Classic Comparing the Gloss and Texture of the
3 Crinkled or Hammertone Finish
- 4 161 Woodring Expert Report Exhibit No. 16 – A Photograph of Four Alternate Designs to
5 Stanley’s “A top or cap with a color that contrasts with the color of the body”
- 6 162 Woodring Expert Report Exhibit No. 17 – A Photograph of Four Alternate Designs to
7 Stanley’s “A top or cap and a band at the base of the body bearing the appearance of a
8 stainless steel finish”
- 9 163 Woodring Expert Report Exhibit No. 18 – A Photograph of Four Alternate Designs to
10 Stanley’s “A band at the base of the body bearing the appearance of a stainless steel
11 finish”
- 12 164 Woodring Expert Report Exhibit No. 19 – A Photograph of Four Alternate Designs to
13 Stanley’s “A tapered or torpedo-like overall look and appearance from bottom to top
14 generated from the top or cap being a diameter that is less than the body”
- 15 165 Woodring Expert Report Exhibit No. 20 – A Photograph of the Thermos 60-100
16 Vacuum Bottle
- 17 166 Woodring Expert Report Exhibit No. 21 – A Photograph of the Thermos 2590 Vacuum
18 Bottle
- 19 167 Woodring Expert Report Exhibit No. 22 – A Photograph of Four Alternate Designs to
20 Stanley’s “A band at the base of the top or cap with a color that substantially matches
21 the color of the body”
- 22 168 Woodring Expert Report Exhibit No. 23 – A Photograph of Four Alternate Designs to
23 Stanley’s “A base of constant diameter substantially throughout its length, A body
24 bearing a crinkled finish with a solid color, and A top or cap with a color that contrasts
25 with the color of the body”
- 169 Woodring Expert Report Exhibit No. 24 – A Photograph of Four Alternate Designs to
Stanley’s “A base of constant diameter substantially throughout its length, A body
bearing a crinkled finish with a solid color, and A top or cap and a band at the base of
the body bearing the appearance of a stainless steel finish”
- 170 Woodring Expert Report Exhibit No. 25 – A Photograph of Four Alternate Designs to
Stanley’s “A base of constant diameter substantially throughout it length, A body
bearing a crinkled finish with a solid color, and A band at the base of the body bearing
the appearance of a stainless steel finish”
- 171 Woodring Expert Report Exhibit No. 26 – A Photograph of Four Alternate Designs to
Stanley’s “A base of constant diameter substantially throughout its length, A body
bearing a crinkled finish with a solid color, and A tapered or torpedo-like overall look
and appearance from bottom to top generated from the top or cap being a diameter that
is less than the body”

- 172 Woodring Expert Report Exhibit No. 27 – A Photograph of Four Alternate Designs to Stanley’s “A base of constant diameter substantially throughout its length, A body bearing a crinkled finish with a solid color, and A band at the base of the top or cap with a color that substantially matches the color of the body”
- 173 Woodring Expert Report Exhibit No. 28 – A Photograph of a 22 Year Old Stanley Classic with its Handle Accessory Compared to the Thermos Work Series 2520 Tall Bottle
- 174 Woodring Expert Report Exhibit No. 29 – A Photograph of a Stanley “Gimbal Vacuum Bottle” Design
- 175 Woodring Expert Report Exhibit No. 30 – A Grid of the Volumes and Surface Areas of a Sphere and Their Ratios
- 176 Woodring Expert Report Exhibit No. 31 – A New Design for a Vacuum Bottle Based on a Spherical Shape
- 177 The Expert Report of James Hebert
- 178 Hebert Expert Report Appendix A - Resumé
- 179 Hebert Expert Report Appendix B – Survey Questionnaire
- 180 The Expert Rebuttal Report of James Hebert
- 181 The Expert Report of Philip Johnson
- 182 The surveys upon which Mr. Johnson based his report
- 183 All documents produced by Mr. Johnson at his deposition pursuant to the subpoena duces tecum issued to him, numbered LJS 0001-108
- 184 The Expert Report of Richard Troxel
- 185 Troxel Expert Report Exhibit A – Resumé
- 186 Troxel Expert Report Exhibit B – Testimony of Richard B. Troxel During the Past Four Years
- 187 Troxel Expert Report Exhibit C – Sales of Thermos Models 2345 and 2520 Bottles
- 188 Troxel Expert Report Exhibit D – PMI Lost Profits from Lost Sales
- 189 Troxel Expert Report Exhibit D-1 – Expected Profitability of Stanley Classic Product
- 190 Troxel Expert Report Exhibit D-2 – Target-Aladdin Retail Sales in 2000, 2001 and 2002 Fall Programs
- 191 Troxel Expert Report Exhibit E – PMI Lost Profits from Reduced Prices
- 192 Documents Considered by Troxel – Press Announcement of PMI Acquisition of Aladdin (dated December 20, 2001)
- 193 Documents Considered by Troxel – “Thermal bottle is one smart invention,” Washington Times (dated March 16, 2003)
- 194 Documents Considered by Troxel – “PMI Updates Stanley Bottle,” Homeworld Business (dated May 25, 2003)
- 195 Documents Considered by Troxel – Stanley Quart Unit and \$ Sales (1998-2003)

- 1 196 Documents Considered by Troxel – Customer Purchases of the Stanley Blue Sport
2 Bottle by Units by \$ by Month (dated June 24, 1999)
- 3 197 Documents Considered by Troxel – Stanley Blue Sport Bottle (2002)
- 4 198 Documents Considered by Troxel – Target Retail Units Sales Fall 2003 vs. Fall 2001
5 and 2000
- 6 199 Documents Considered by Troxel – Target-Aladdin Listing and Point of Sales Review
7 (dated December 2, 2002)
- 8 200 Documents Considered by Troxel – E-mail from Linda Schultz re Proposed Target
9 Program (dated December 4, 2002)
- 10 201 Documents Considered by Troxel – E-mail from Mike Donnelly re Target Sporting
11 Goods Meeting-November 19th (dated November 20, 2002)
- 12 202 Documents Considered by Troxel – E-mail from Mike Donnelly re Aladdin/Target
13 Weekly Reports (dated November 13, 2002)
- 14 203 Documents Considered by Troxel – Target-Aladdin Listing and Point of Sales Review
15 (dated November 13, 2002)
- 16 204 Documents Considered by Troxel – E-mail from Mike Donnelly re Target - POS YTD
17 and History (dated November 1, 2002)
- 18 205 Documents Considered by Troxel – Target-Aladdin Listing and Point of Sales Review
19 (dated October 30, 2002)
- 20 206 Documents Considered by Troxel – E-mail from Linda Schultz re Thermos Work
21 Bottle (dated October 28, 2002)
- 22 207 Documents Considered by Troxel – E-mail from Linda Schultz re Target/Aladdin
23 Performance (dated October 22, 2002)
- 24 208 Documents Considered by Troxel – Target-Aladdin Sales By Region (dated October
25 21, 2002)
- 209 Documents Considered by Troxel – Thermos from Mike Donnelly re Thermos Update
(dated October 9, 2002)
- 210 Documents Considered by Troxel – E-mail from Marc Platt re Stanley Fall 2002 Bottle
Strategy and Program (dated October 1, 2002)
- 211 Documents Considered by Troxel – Proposed Stanley Rebate Program for November to
January 2003 Purchases (dated December 16, 2003)
- 212 Documents Considered by Troxel – E-mail from Mike Bross re New Thermos Product
(dated October 1, 2002)
- 213 Documents Considered by Troxel – E-mail from Linda Schultz re New Thermos
Product (dated September 25, 2002)
- 214 Documents Considered by Troxel – E-mail from Marc Platt re New Thermos Product
(dated September 26, 2002)

- 215 Documents Considered by Troxel – E-mail from Mike Donnelly re Steel Bottle Pricing (dated September 10, 2002)
- 216 Documents Considered by Troxel – Steel Bottle Review (dated September 10, 2002)
- 217 Documents Considered by Troxel – E-mail from Mike Donnelly re Kmart Meeting - September 5th (dated September 6, 2002)
- 218 Documents Considered by Troxel – Target-Pricing Review (dated June 5, 2003)
- 219 Documents Considered by Troxel – Stanley vs. Thermos
- 220 Documents Considered by Troxel – Thermos 1.25 Quart
- 221 Withdrawn
- 222 Documents Considered by Troxel – Aladdin 2003 Price List (dated December 16, 2003)
- 223 Documents Considered by Troxel – Stanley Master File-List-Volume-Distributor Pricing (dated June 1, 2001)
- 224 Documents Considered by Troxel – Aladdin 2002 Price List
- 225 Documents Considered by Troxel – Stanley Product Descriptions
- 226 Documents Considered by Troxel – E-mail from Mike Donnelly re Target Meeting - January 27, 2004 (dated January 27, 2004)
- 227 Documents Considered by Troxel – E-mail from Mike Bross re Stanley Trade Research (dated August 5, 2003)
- 228 Documents Considered by Troxel – E-mail from Tami Fujii to Rob Harris (dated January 28, 2004)
- 229 Documents Considered by Troxel – E-mail from T.H. Chang to Rob Harris (dated January 17, 2003)
- 230 Documents Considered by Troxel – E-mail from Linda Schultz re Target Meeting - January 27, 2004 (dated January 27, 2004)
- 231 Documents Considered by Troxel – E-mail from Mike Donnelly re Proposed Target Program (dated December 4, 2002)
- 232 Documents Considered by Troxel – E-mail from Mike Donnelly re Pamida Meetings (dated September 26, 2002)
- 233 Documents Considered by Troxel – Steel Bottle Review (dated September 10, 2002)
- 234 Documents Considered by Troxel – Product Category
- 235 Documents Considered by Troxel – 2004 Strategic Planning Process
- 236 Documents Considered by Troxel – Pacific Market International Brand Equity Research
- 237 Documents Considered by Troxel – Stanley Bottles
- 238 Documents Considered by Troxel – Target-Aladdin Listing and Point of Sales Review (dated January 26, 2004)
- 239 Documents Considered by Troxel – Invoice Detail Listings

- 1 240 Documents Considered by Troxel – E-mail from Marc Platt re Stanley Fall 2002 Bottle
Strategy and Program (dated October 1, 2002)
- 2 241 Documents Considered by Troxel – Proposed Stanley Rebate Program for November to
3 January 2003 Purchases (dated January 1, 2003)
- 4 242 Documents Considered by Troxel – YTD Pos Sales Kmart Target
- 5 243 Documents Considered by Troxel – P&L Actual (2003–May 31, 2004)
- 6 244 Documents Considered by Troxel – CD with various spreadsheets
- 7 245 Documents Considered by Troxel – Company Objectives (dated July 1, 2004)
- 8 246 Documents Considered by Troxel – Stanley Quart Unit and \$ Sales (1997-2003)
- 9 247 Withdrawn
- 10 248 Withdrawn
- 11 249 Documents Considered by Troxel – 1 Qt. Stanley Sales (1997-1998)
- 12 250 Documents Considered by Troxel – Stanley Bottle Qt. And Wide Mouth UNIT Sales
(2000)
- 13 251 Documents Considered by Troxel – Sales Data (2001)
- 14 252 Withdrawn
- 15 253 Withdrawn
- 16 254 Documents Considered by Troxel – Aladdin 2002 Price List (dated July 3, 2004)
- 17 255 Documents Considered by Troxel – Stanley Master File-List-Volume-Distributor
Pricing (dated June 1, 2001)
- 18 256 Documents Considered by Troxel – Aladdin 2003 Price List
- 19 257 Documents Considered by Troxel – Target-Aladdin Listing and Point of Sales Review
(dated November 13, 2002)
- 20 258 Documents Considered by Troxel – 2002 Gross Sales \$
- 21 259 Documents Considered by Troxel – Stanley Classic Bottle Units Sold (2001-May,
2002)
- 22 260 Documents Considered by Troxel – Target Retail Units Sales Fall 2002 vs. Fall 2001
and 2000
- 23 261 Documents Considered by Troxel – Target-Aladdin Listing and Point of Sales Review
(dated December 2, 2002)
- 24 262 Documents Considered by Troxel – Stanley Account List, Sorted By Sales in
Descending Order (dated February 16, 2004)
- 25 263 Documents Considered by Troxel – Recap of Sales by Customer (June 2002-May,
2004)
- 264 Documents Considered by Troxel – Target - Pricing Review (dated June 5, 2003)
- 265 Documents Considered by Troxel – Thermos Work Bottle Was In Target Sept. of 2002

1 266 Documents Considered by Troxel – Target-Aladdin Listing and Point of Sales Review
(dated December 2, 2002)

2 267 Documents Considered by Troxel – CD with various spreadsheets

3 268 Withdrawn

4 269 Documents Considered by Troxel – 2001 Stanley QT Average Price per Customer
(dated July 16, 2004)

5 270 Documents Considered by Troxel – 2002 \$ Periods 1-5

6 271 Documents Considered by Troxel – 2002 June to Dec \$

7 272 Documents Considered by Troxel – 2002 Qty. Stanley Bottles June to Dec

8 273 Documents Considered by Troxel – Stanley Quart Unit and \$ Sales

9 274 Withdrawn

10 275 Documents Considered by Troxel – Description of Abbreviations

11 276 Documents Considered by Troxel – Average Stanley 1.1 Qt, 24 oz. Wide Mouth and 2
Qt. Bottle Cost of Sales

12 277 Documents Considered by Troxel – Stanley 2 Qt Classic Bottle Sales in Units and \$

13 278 Documents Considered by Troxel – Thermos Work Series Launch Packet (dated May
1, 2002)

14 279 Documents Considered by Troxel – Thermos Vacuumware Product Development Brief
(dated May 22, 2001)

15 280 Documents Considered by Troxel – Stanley Killer Research Project

16 281 Documents Considered by Troxel – Rationale Work Series Bottle

17 282 Documents Considered by Troxel – Sales/COGS Results Detail

18 283 Documents Considered by Troxel – Sales by Product-Current/Prior Years (2002-2003)

19 284 Documents Considered by Troxel – Thermos Closed Orders by Product Categories
Report

20 285 Documents Considered by Troxel – 2520 and 2345 Sales, Costs, Profits and Inventories

21 286 Documents Considered by Troxel – E-mail on Standards for 2520 and 2345 (dated
August 12, 2003)

22 287 Documents Considered by Troxel – Invoice detail for 2345 and 2345T2 (2002-2003)

23 288 Documents Considered by Troxel – USD Top Line P&L (July, 2004)

24 289 Documents Considered by Troxel – Thermos LLC Profit & Loss Statements (August,
2002-June, 2003)

25 290 Documents Considered by Troxel – Transaction data

291 Documents Considered by Troxel – Annual budget (2004)

292 Documents Considered by Troxel – Invoice detail for 2520, 2520CAS, 2520K4 and
2520T2 (2002-2003)

293 Documents Considered by Troxel – Invoice detail for 2345 and 2345T2 (2003)
 294 Documents Considered by Troxel – Sales thru 4/30/03 (handwritten) (dated April 30, 2003)
 295 Documents Considered by Troxel – All Inventories Value Report (dated July 1, 2003)
 296 Documents Considered by Troxel – E-mail on Month End On-Hand Balances (dated August 12, 2003)
 297 Troxel Expert Report Appendix 1 – Stanley 1-Quart, 2-Quart and Wide Mouth Bottle Sales
 298 The Rebuttal Report of Richard Troxel
 299 Withdrawn
 300 Withdrawn
 301 Withdrawn
 302 John Bergeron deposition exhibits 8, 9, 10, 12, 14, 15, 16, 19, 20, 22, 23, 25, 27, 28, 29
 303 Withdrawn
 304 Withdrawn
 305 Withdrawn
 306 Withdrawn
 307 Withdrawn
 308 308A Exhibit 500 to the 30(b)(6) Deposition of Thermos (Second Amended Notice of Deposition of Thermos LLC Pursuant to FRCP 30(b)(6));
 308B Exhibit 515 to the 30(b)(6) Deposition of Thermos (Stanley bottle produced by Anthony Seitz)
 309 Withdrawn
 310 Withdrawn
 311 Withdrawn
 312 Withdrawn
 313 Withdrawn
 314 Withdrawn
 315 Withdrawn
 316 Withdrawn
 317 Withdrawn
 318 Thermos’s Answers to PMI’s First Set of Interrogatories
 319 Thermos’s Answers to PMI’s Second Set of Interrogatories
 320 Thermos’s Responses to PMI’s First Set of Requests for Production of Documents and Things
 321 Thermos’s Responses to PMI’s Second Set of Requests for Production of Documents and Things
 322 Thermos’s Responses to PMI’s Third Set of Requests for Production of Documents and Things

323 Thermos's Responses to PMI's First Set of Requests for Admission

324 Any documents or things designated as exhibits by Thermos

Defendant's Exhibits:

- A-1 Buntin Marketing Services' survey entitled "Aladdin Industries, Inc., Stanley Steel Vacuum Bottle Blue-Collar Workforce Study Topline Report Findings dated May 26, 1999." (Buntin Dep. Ex. 1053)
- A-2 E-mail from Sean Kim dated September 26, 2002 Re: New Thermos Product (PMI 4268-70)
- A-3 Philip Johnson's report of survey entitled "Pacific Market, Inc. v. Thermos, L.L.C., A Study of Likelihood of Confusion, June 2004.
- A-4 Letter from Johnson to Ed O'Connor re pilot research, 5/10/04, including pilot findings and without trade screen.
- A-5 Johnson validation report.
- A-6 Code Deck for Johnson survey.
- A-7 Excel spreadsheet re coding of interviews and disk.
- A-8 Johnson survey questionnaires.
- A-9 Questionnaires from Johnson pilot survey (with and without trade screen).
- A-10 PMI's survey entitled "Pacific Market International Brand Equity Research, Executive Summary, April 2002" (PMI 4790-4816)
- A-11 Withdrawn
- A-12 E-mail re Target Sporting Goods Meeting – November 19th (PMI 4242-44)
- A-13 E-mail re Aladdin/Target Weekly Reports (PMI 4245-46)
- A-14 Withdrawn
- A-15 11-1-02 E-mail re Target – POS YTD and History (PMI 4248)
- A-16 10-30-02 Target-Aladdin Listing and POS Review – Fall Program (PMI 4249)
- A-17 10-28-02 E-mails re Thermos Work Bottle (PMI 4250)
- A-18 E-mails re New Thermos Product (PMI 4268-70)
- A-19 Withdrawn
- A-20 Withdrawn
- A-21 6-5-03 Revised 7-17-03 Target – Pricing Review (PMI 4294)
- A-22 Withdrawn
- A-23 Withdrawn
- A-24 Withdrawn
- A-25 2-9-04 E-mail re FW: Target Meeting – January 27, 2004 (PMI 4337)
- A-26 Withdrawn
- A-27 Withdrawn
- A-28 3-24-03 Article – PMI Updates Stanley Bottle to Make it Relevant for Today's Consumers (PMI 4220)
- A-29 Stanley Quart Unit and \$ Sales 1998 to 2003 (PMI 4229)
- A-30 Withdrawn
- A-31 2001 Customer Purchases of the Stanley Blue Sport Bottle by Units by \$ by Month (PMI 4232)
- A-32 Withdrawn

- 1 A-33 12-2-02 Target – Aladdin Listing and Point of Sales Review (Sales at Retail) Review – Fall Program (PMI 4235-36)
- 2 A-34 The Buntin Group “A Unique Communications Resource for Aladdin Industries, Inc., March 30, 1993” (Buntin Dep. Ex. 1051)
- 3 A-35 Announcement of PMI’s Acquisition of Aladdin. (Doyle Dep. Ex. 3)
- 4 A-36 Final Announcement of PMI’s Acquisition of Aladdin. (Doyle Dep. Ex. 4)
- 5 A-37 PMI Marketing Plan (Doyle Dep. Ex. 5)
- 6 A-38 PMI “Market Opportunity, Portfolio Strategy, and Brand Visions” updated 2/14/02 (Doyle Dep. Ex. 6)
- 7 A-39 10-2002 E-mails re Thermos Update (PMI 4262-63)
- 8 A-40 10-1-02 E-mails re Stanley Fall 2002 Bottle Strategy and Program (PMI 4265-66)
- 9 A-41 Withdrawn
- 10 A-42 Withdrawn
- 11 A-43 1-26-04 Target-Aladdin Listing and POS Review – Fall Program (PMI 4819)
- 12 A-44 Pacific Market, Inc.’s Responses to Defendant Thermos L.L.C.’s First Set of Requests for Admissions to Plaintiff Pacific Market, Inc., (5 pages)
- 13 A-45 December 20, 2001 Press Release (2 pages)
- 14 A-46 1-28-03 E-mail from Tami Fujii to Rob Harris re CNBC Outline (PMI 4347-48)
- 15 A-47 September ’02 E-mails re New Thermos Product (PMI 4276-78)
- 16 A-48 Withdrawn
- 17 A-49 9-10/02 Steel Bottle Review (PMI 4779)
- 18 A-50 Aladdin 2003 Product Catalog (PMI 4204-15)
- 19 A-51 PMI Marketing Communications Plan , January 8, 2004
- 20 A-52 PMI Brand/Private Label Platform Documents 11/26/02 (LJM 1061-67)
- 21 A-53 Closing Documents (PMI 4383-4778)
- 22 A-54 Early Design/Concepts, Concepts 1-10. (HADW 2-14)
- 23 A-55 Early Design/Concept Box Artwork for the Classic and Octagon. (HADW 15)
- 24 A-56 Early Design/Concept Box Artwork for the Classic Green Bottle.(HADW 16)
- 25 A-57 Early Design/Concept Box Artwork for the Classic Green Bottle and 16 oz. Travel Mug. (HADW 17)
- A-58 Early Design/Concept Box Artwork for the Green Bottle Classic and 16 oz. Traveling Mug. (HADW 18)
- A-59 Early Design/Concept Box Artwork for the for the Classic Bottle. (HADW 19)
- A-60 Early Design/Concept Box Artwork for the Classic Bottle. (HADW 20)
- A-61 Early Design/Concept Box Artwork for the Classic Bottle. (HADW 21)
- A-62 Early Design/Concept Box Artwork for the Classic Bottle. (HADW 22)
- A-63 Early Design/Concept Box Artwork for the Classic Green Bottle. (HADW 23)
- A-64 Early Design/Concept Box Artwork for the Classic Green Bottle. (HADW 24)
- A-65 Early Design/Concept Box Artwork for the Stanley Bottle. (HADW 25)
- A-66 Early Design/Concept Box Artwork for the Classic Green Bottle. (HADW 26)
- A-67 E-mail dated 09/18/02 re changes to package copy (HADW 27-32)
- A-68 Handwritten notes re PMI and the project. (HADW 121-122)
- A-69 Company Objectives. (HADW 123-134)
- A-70 Outline of consumer research re PMI products. (HADW 135-140)
- A-71 PMI Market Opportunity, Portfolio Strategy and Brand Visions. (HADW 141-62)
- A-72 2002 Coleman Retail Price List and hoover.com information. (HADW 163-203)

1 A-73 Hornal Anderson Creative Brief, Packaging Design Development. (HADW 204-06)
 A-74 Box for Aladdin Stanley Bottle. (HADW 207)
 2 A-75 Box for Stanley Bottle. (HADW 208)
 A-76 Aladdin Retail Products Catalog. (HADW 209-20)
 3 A-77 The Stanley Brand, Retail Environment Research and Analysis. (HADW 221-26)
 A-78 Artwork for Stanley Classic Green Box. (HADW 302)
 4 A-79 Artwork for Stanley Classic Green Box. (HADW 303)
 A-80 Artwork for for Stainless Steel Bottle Box. (HADW 304)
 5 A-81 Artwork for Stanley Box. (HADW 305)
 A-82 Artwork for Stanley Classic Box. (HADW 306)
 6 A-83 Artwork for Stanley Classic Box. (HADW 307)
 A-84 Artwork for Stanley Quart Bottle Box. (HADW 308)
 7 A-85 Artwork for Stanley Classic Green Box. (HADW 309)
 A-86 Artwork for Stanley Quart Bottle Box. (HADW 310)
 8 A-87 Artwork for Stanley Quart Bottle Box. (HADW 311)
 9 A-88 Artwork for Stanley Stainless Steel Bottle Box. (HADW 312)
 10 A-89 Artwork for Stanley Classic Green Box . (HADW 313)
 A-90 Project Tracking Timeline. (HADW 315)
 11 A-91 E-mail dated 08/28/02 re price estimate for printing packaging. (HADW 316-17)
 A-92 Stanley Packaging and Brand Guidelines. (HADW 376-385)
 12 A-93 Proofs. (HADW 375, 386-453)
 A-94 Design Refinement Artwork. (HADW 454-517)
 13 A-95 Shape Studies Artwork. (HADW 518-530)
 A-96 Aladdin History, Research and Strategy Report. (HADW 531-559)
 14 A-97 Stanley Packaging Round 3 Creative and In-Store Color Testing Report. (HADW
 560-564)
 15 A-98 Color & Design Explore Artwork. (HADW 565-609)
 16 A-99 Philip Johnson's Rebuttal Report
 A-100 Handbook of Survey Research edited by Rossi, Wright and Anderson (1983).
 17 A-101 PMI's Responses to Thermos's Interrogatories and Requests to Admit
 A-102 Thermos' Rule 30(b)(6) Deposition Notice to PMI
 18 A-103 Letter from Ehrlichman to O'Connor, 6/22/04.
 A-104 E-mails re Kmart Sales By Month, 1/11/02. (Thermos 84-85)
 19 A-105 Article, "Kmart faces daunting challenges in reorganization." (Thermos 86-89)
 A-106 E-mail re Congratulations, 10/21/01. (Thermos 100)
 20 A-107 Memorandum re Kmart VW Review Meeting, 9/20/01. (Thermos 103-05)
 21 A-108 E-mails re Meeting Notes, 9/06-9/07/01. (Thermos 111-15)
 A-109 Color copy of Thermos 2001 Insulated & Vacuum Containers Catalog. (Produced as
 22 Thermos 116-35)
 A-110 E-mail re Kmart, 4/23/01. (Thermos 186)
 23 A-111 E-mails re Work Series Bottle, 5/30/02. (Thermos 486)
 A-112 E-mails re Quotations, 3/10-3/11/02. (Thermos 524)
 24 A-113 E-mail re Work Series Bottle at Target, 10/31/02. (Thermos 536)
 A-114 E-mail re Target POS on Work Bottles, 10/23/02. (Thermos 539)
 25 A-115 E-mail re Target Vacuumware Update, 10/16/02. (Thermos 551)

1 A-116 E-mails re cancellation of orders, 11/11-11/18/02, and attachments. (Thermos 576-603)
 2 A-117 "Costco, Hardware 2002, Vacuumware Promotions." (Thermos 649-52)
 3 A-118 Target Fall 2002 Planogram. (Thermos 660-62)
 4 A-119 "Costco, Stationary 2002, Desk Organizer Promotions." (Thermos 870-79)
 5 A-120 Memorandum re Major Accounts, 12/15/99. (Thermos 1167-68)
 6 A-121 Copy of Thermos/Nissan 2000 New Products Catalog. (Thermos 1109-14)
 7 A-122 Category Sales and Profit Analysis - Target. (Thermos 1181-82)
 8 A-123 Call Recap Form re Target, 7/23/02. (Thermos 1222-23)
 9 A-124 Handwritten notes re beverageware. (Thermos 1226)
 10 A-125 Emails re Target Forecasted Sales 2002, 7/31/02. (Thermos 1350-54)
 11 A-126 E-mails re Quotation Forms: Target VW Program, 1/30-2/1/02. (Thermos 1452-53)
 12 A-127 Work Series drawings dated 1/00/02. (Thermos 1674-82)
 13 A-128 Purchase Order and quotation. (Thermos 1683-84)
 14 A-129 Price Quotation dated 1/11/02. (Thermos 1700)
 15 A-130 Work Series beverage bottle drawings. (Thermos 1701-04)
 16 A-131 E-mails re Request for EP of Stanley Killer Projects, 11/20-11/26/01. (Thermos 1711-12)
 17 A-132 Letter to Mike Riehle re Thermos program, 2/11/02. (Thermos 1421-27)
 18 A-133 Report, "Vacuum Flasks: 1997 Strategic & Tactical Annual Market Assessment" (excerpt). (Thermos 1895-1907)
 19 A-134 Report, "Vacuum Flasks: 1999 Strategic & Tactical Annual Market Assessment" (excerpt). (Thermos 2408-16)
 20 A-135 Report, "Vacuum Flasks: 1998 Strategic & Tactical Annual Market Assessment" (excerpt). (Thermos 2471-78)
 21 A-136 Report, "Vacuum Flasks: 2000 Strategic & Tactical Annual Market Assessment" (excerpt). (Thermos 2532-40)
 22 A-137 "Target/Thermos 4th Quarter sales – 1999." (Thermos 2603)
 23 A-138 E-mail re Thermos Response/need to change meeting date for Thermos review, 1/23/01. (Thermos 2827)
 24 A-139 Thermos New Product Development information sheets. (Thermos 3378-88)
 25 A-140 Memorandum re 9/25/01 New Product Development Meeting, 9/19/01. (Thermos 3392-3436)
 A-141 Handwritten notes re 8/24/00 NPD. (Thermos 3580)
 A-142 Target advertisements and attached Weekly Sales by Type: Unit. (Thermos 3593-98)
 A-143 Handwritten notes re "11/7/02 Target Prep Mtg." (Thermos 3600)
 A-144 E-mail re Meeting with Target & Ladder Forecasts, 11/6/02. (Thermos 3601-02)
 A-145 Handwritten notes re John Butcher. (Thermos 3636)
 A-146 Target Fall Vacuumware Review, February 5, 2002. (Thermos 3658-83)
 A-147 Target Beverageware Plan-o-gram. (Thermos 3650-55)
 A-148 Memorandum re Cold Beverage Insulation Strategy Brief, 2/02. (Thermos 3690-94)
 A-149 Aladdin Killer Food Jar Price (TTM) . (Thermos 3784)
 A-150 Memorandum re Stanley Killer Research and Direction. (Thermos 3785)
 A-151 Handwritten notes and "Stanley Killer" Discussion Guide. (Thermos 6531-33)
 A-152 "The Rock vs. Stanley Bottle Case Study in Canada." (Thermos 3841-42)

1 A-153 Handwritten notes re 5/29/02 NPD Mtg. (Thermos 3864)
 A-154 Work Series Bottle Marketing Support Plan. (Thermos 3903)
 2 A-155 Handwritten notes re Trade Outreach. (Thermos 3914)
 A-156 SVW Analysis – 7/17/00. (Thermos 3956-57)
 3 A-157 E-mail re SVW Bottle Transition, 6/14/00. (Thermos 3966)
 A-158 USA Profitability Summary by Product Class. (Thermos 4355-56)
 4 A-159 USA Profitability Summary by Region/Product Class. (Thermos 4357-78)
 A-160 Thermos 2000 Marketing Plan, Vacuumware. (Thermos 4735-4785)
 5 A-161 Thermos Attack Plan, 1/1/02. (Thermos 4992-5002)
 A-162 Brand Equity Study, Final Presentation, 7/29/02. (Thermos 5035-5072)
 6 A-163 Brand Equity Study, Weighted Data (Thermos 5074-5154)
 A-164 Important Vacuumware News with attached Thermos Vacuumware Evolution.
 (Thermos 5357-62)
 8 A-165 E-mails re Kmart Issues, 10/18-10/21/02. (Thermos 5471-74)
 A-166 2001 and 2002 Kmart sales data. (Thermos 5438-46)
 9 A-167 File, “Club VW Attack Plan.” (Thermos 5496-97)
 A-168 E-mail re Average Price Analysis, 10/7/02. (Thermos 5492-95)
 10 A-169 File, “K-mart Attack Plan.” (Thermos 5501-03)
 A-170 E-mail re Rock bottle and food jar, 6/22/01. (Thermos 5626)
 11 A-171 E-mails re #2510R Price at TCC, 1/4-1/8/01. (Thermos 5632)
 A-172 E-mails re Rock Bottle, 11/21/00. (Thermos 5638)
 12 A-173 E-mail re Rock vs Stanley, 9/5/00. (Thermos 5650)
 A-174 2510R sales and Sales by Product - Detail. (Thermos 5666-74)
 13 A-175 Handwritten notes of Oct. 17, 2001 Meeting at TCC. (Thermos 5758-74)
 A-176 Memorandum re Aladdin’s 1999 Catalog & Pricing and attached catalog. (Thermos
 5926-36)
 15 A-177 1999 Aladdin Beverageware Catalog. (Thermos 5937-48)
 A-178 US Patent No. 3,618,807, “Insulated Metal Cups for Thermos Bottles. (Thermos
 5996-6002)
 17 A-179 Handwritten notes re Ranger launch Meeting. (Thermos 6800)
 A-180 Handwritten notes re Work Bottle features. (Thermos 6805)
 18 A-181 Insight Product Development Design Proposal for the Development of the new
 “Stanley Killer” Vacuum Bottle. (Thermos 6921-28)
 19 A-182 2000-2001 Sales Data. (Thermos 4116-18)
 A-183 Work Series Teaser Campaign. (Thermos 6200-02, 6205-07, 6216-17, 6228, 6232-
 20 33, 6240-41, 6264-67)
 A-184 Purchase Order dated 01/25/02. (Thermos 6970)
 21 A-185 E-mail re Quote, 3/05/02, and attached job quotes. (Thermos 7092-95)
 A-186 E-mail re Ranger, 2/07/02. (Thermos 7098)
 22 A-187 Color copy of Thermos 2003 Insulated & Vacuum Containers Catalog. (Produced as
 23 Thermos 7145-60)
 A-188 Color copy of Thermos 2003 Product Catalog. (Produced as Thermos 7161-80)
 24 A-189 Copy of Thermos 2003 Promotional Catalog. (Thermos 7239-58)
 A-190 Color copies of cover and selected pages from Thermos 1991 Vacuum Ware
 25 Catalog. (Produced as Thermos 7260-62)

- 1 A-191 Color copy of ad: "Thermos Dares to Compare ...And Wins." (Produced as
Thermos 7264-67)
- 2 A-192 Color copies of cover and selected pages from Thermos Vacuum Bottles catalog.
(Produced as Thermos 7269-71)
- 3 A-193 Color copies of cover and one page from 1997 Nissan Stainless catalog. (Produced
as Thermos 7280-81)
- 4 A-194 Color copies of cover and one page from Thermos 2002 Insulated & Vacuum
Containers catalog. (Produced as Thermos 7289-90)
- 5 A-195 Color copy of Thermos 1991 Vacuum Ware catalog. (Cover and first two pages of
this catalog produced as Thermos 7260-62.) (Thermos 7790-7801)
- 6 A-196 Color copy of Thermos 1995 Vacuum Bottles catalog. (Cover and pages 6 and 15 of
this catalog produced as Thermos 7269-71.) (Thermos 7802-7817)
- 7 A-197 Color copy of 1996 Nissan Stainless catalog. (Cover and page 3 of this catalog
produced as Thermos 7280-81.) (Thermos 7818-7835)
- 8 A-198 Color copy of Thermos 2002 Insulated & Vacuum Containers catalog. (Cover and
page 3 of this catalog produced as Thermos 7289-90.) (Thermos 7836-7855)
- 9 A-199 Color copy of Thermos 1990 Vacuum Ware catalog. (Thermos 7856-7867)
- 10 A-200 Color copy of Thermos 1992 Vacuum Ware catalog. (Thermos 7868-7881)
- 11 A-201 Color copy of Thermos 1993 Steel Vacuum Bottles catalog. (Thermos 7882-7889)
- 12 A-202 Color copy of Thermos 1996 Vacuum Bottles catalog. (Produced by Meridian and
numbered as M 1-22.) (Thermos 7890-7911)
- 13 A-203 Color copy of Thermos 1997 Vacuum Ware catalog. (Clear copy of document
produced at Murakami deposition and marked as Dep. Ex. 126; bates numbers added
for trial convenience.) (Thermos 7912-7933)
- 14 A-204 Color copy of Thermos 1998 Vacuum Ware catalog. (Clear copy of document
produced at Murakami deposition and marked as Dep. Ex. 127; bates numbers added
for trial convenience.) (Thermos 7934-7957)
- 15 A-205 Color copy of Thermos Vacuum & Insulated Containers catalog. (Clear copy of
document produced at Murakami deposition and marked as Dep. Ex. 128; bates
numbers added for trial convenience.) (Thermos 7958-7995)
- 16 A-206 Color copy of Thermos 1993 Vacuum Ware and Carafes catalog. (Thermos 7996-
8017)
- 17 A-207 Color copy of Thermos 2004 Insulated Food and Beverage Containers catalog.
(Clear copy of document produced at Murakami deposition and marked as Dep. Ex.
129; bates numbers added for trial convenience.) (Thermos 8018-8053)
- 18 A-208 Color copy of Thermos Nissan Insulated Food and Beverage Containers catalog.
(Clear copy of document produced at Murakami deposition and marked as Dep. Ex.
130; bates numbers added for trial convenience.) (Thermos 8054-8077)
- 19 A-209 Rationale, Work Series Bottle. (Thermos 7291)
- 20 A-210 Sales/COGS Results Detail – January 2002. (Thermos 7292-7309)
- 21 A-211 SVW Sales by Product – Current/Prior Years. (Thermos 7310)
- 22 A-212 Thermos Closed Orders by Product Categories Report dated 09/15/03. (Thermos
7312-59)
- 23 A-213 Thermos LLC, 2520 and 2345 Sales, Costs, Profits and Inventories dated 01/16/04.
(Thermos 7360)
- 24 A-214 Purchase Orders. (Thermos 7362-99)

1 A-215 Sales of 2345 and 2345T2, 9/02-4/03. (Thermos 7401-13)
 A-216 2345T2 Transactions. (Thermos 7426-48)
 2 A-217 2345 Transactions. (Thermos 7449-56)
 A-218 2520 Transactions. (Thermos 7457-69)
 3 A-219 2520HD Transactions. (Thermos 7470)
 A-220 2520T2 Transactions. (Thermos 7471-92)
 4 A-221 Thermos 2004 Annual Budget, Steel Vacuumware, Monthly Unit Sales, 07/29/03.
 (Thermos 7493-95)
 5 A-222 Sales of 2520 and 2520T2, 09/02-4/03. (Thermos 7496-7509)
 6 A-223 Thermos Closed Orders 2520, 5/03-7/03. (Thermos 7510-16)
 A-224 Thermos Closed Orders 2345, 5/03-7/03. (Thermos 7517-22)
 7 A-225 Sales through 4/30/03. (Thermos 7523-24)
 A-226 All Inventories Value Report dated 07/01/03. (Thermos 7525-30)
 8 A-227 E-mail re Month End On-Hand balances, 8/12/03. (Thermos 7531)
 A-228 Thermos LLC 2520 and 2345 Sales, Costs, and Profits. (Thermos 7533)
 9 A-229 Thermos LLC 2520 and 2345 Sales, Costs, and Profits, updated through January
 2005. (Thermos 7728-30)
 10 A-230 2520 and 2345 Sales, Costs and Profits, COGS at Standard Rates. (Thermos 7541)
 11 A-231 Sales of Work Series beverage bottle, 8/03-5/04. (Thermos 7564-84)
 A-232 Thermos Closed Orders 2345, 5/03-7/03. (Thermos 7598-7603)
 12 A-233 Sales of Work Series food bottle 8/03-5/04. (Thermos 7604-22)
 A-234 Pages from Thermos Website. (Thermos 7623-27)
 13 A-235 Pages from PMI Website. (Thermos 7630-38)
 A-236 Pages from vacuum ware websites compiled by David Nolte. (Thermos 7640-85)
 14 A-237 Expert Report of David Nolte.
 A-238 Rebuttal Expert Report of David Nolte.
 15 A-239 Withdrawn
 16 A-240 Thermos LLC 2520 and 2345 Sales, Costs, and Profits, 8/02-5/04. (Included in
 binder produced at deposition of David Nolte.)
 17 A-241 Thermos LLC 2520 and 2345 Sales, Costs, and Profits, 8/02-8/04. (Included in
 binder produced at deposition of David Nolte.)
 18 A-242 Thermos LLC 2520 and 2345 Sales, Costs, and Profits: Chart Data. (Included in
 binder produced at deposition of David Nolte.)
 19 A-243 Thermos LLC Damage Analysis. (Included in binder produced at deposition of
 David Nolte; bates numbers added for convenience at trial.)
 20 A-244 Pacific Market, Inc. vs. Thermos LLC Damage Summary, updated through 1/05.
 (Thermos 7727)
 21 A-245 Thermos 2520 sales, 6/04-7/04. (Included in binder produced at deposition of David
 22 Nolte.)
 A-246 Thermos 2345 sales, 6/04-7/04. (Included in binder produced at deposition of David
 23 Nolte.)
 24 A-247 Thermos® historical vacuum bottle with black morocco covering. (As stated during
 Rule 30(b)(6) deposition of Tony Seitz, historical bottles are available for inspection
 25 upon request.) (Thermos 7788)

- 1 A-248 Thermos® historical vacuum bottle, all steel. (As stated during Rule 30(b)(6)
deposition of Tony Seitz, historical bottles are available for inspection upon request.)
2 (Thermos 7789)
- 3 A-249 Thermos® historical vacuum bottle with painted body and THERMOS label. (As
stated during Rule 30(b)(6) deposition of Tony Seitz, historical bottles are available
4 for inspection upon request.) (Thermos 7784)
- 5 A-250 Thermos® historical vacuum bottle, corrugated nickel. (As stated during Rule
30(b)(6) deposition of Tony Seitz, historical bottles are available for inspection upon
6 request.) (Thermos 7785)
- 7 A-251 Thermos® historical vacuum bottle, 1 Quart Metal Cased. (As stated during Rule
30(b)(6) deposition of Tony Seitz, historical bottles are available for inspection upon
8 request.) (Thermos 7786)
- 9 A-252 Thermos® historical vacuum bottle. (As stated during Rule 30(b)(6) deposition of
Tony Seitz, historical bottles are available for inspection upon request.) (Thermos
7787)
- 10 A-253 American Thermos Bottle Company catalog page. (Dep. Ex. 519.)
- 11 A-254 Photograph of historical Thermos® vacuum bottle. (Dep. Ex. 520)
- 12 A-255 Stanley one-quart green bottle with plastic cup cap.
- 13 A-256 Samples of replacement cups for Stanley one-quart green bottle.
- 14 A-257 Sample of Thermos Work Series beverage bottle.
- 15 A-258 Sample of Thermos Work Series food bottle.
- 16 A-259 Sample of Thermos Work Series beverage bottle packaging.
- 17 A-260 Sample of Thermos Work Series food bottle packaging.
- 18 A-261 Sample of Stanley one-quart green bottle packaging.
- 19 A-262 Sample of Stanley wide-mouth green bottle packaging.
- 20 A-263 U.S. Design Patent No. 427,107, entitled Food Jar.
- 21 A-264 U.S. Design Patent No. 476,859, entitled Vacuum Bottle.
- 22 A-265 U.S. Trademark Registrations for THERMOS (Reg. Nos. 67,002; 176,064; 229,816;
2,211,478; 2,644,361; and 2,909,238)
- 23 A-266 1980 Aladdin catalog. (PMI 111-26)
- 24 A-267 1972 Aladdin promotional literature. (PMI 1149)
- 25 A-268 Color copy of 1989 Consumer Reports article. (Black & white copy produced as
PMI 2080-83)
- A-269 Great Falls Tribute article, 3/06/03. (PMI 4086)
- A-270 Homeworld Business article, 5/25/03. (PMI 4087-88)
- A-271 2001 Stanley catalog. (PMI 4097-4118)
- A-272 2002 Stanley Retail Products catalog. (PMI 4119-30)
- A-273 Photo array of Stanley products. (PMI 4133-34)
- A-274 Aladdin catalog. (PMI 4184-4215)
- A-275 Product Package for Stanley Sport Bottle. (PMI 4135)
- A-276 Stanley Product drawings. (PMI 1385-1386, 2214, 2216-2219, 2221-2222, 2224,
2229, 2234, 2237, 2240-2241, 2244, 2448-2251, 2256-2262, 2472, 2527, 3228-3230,
3252, 3253-3255, 3263, 3305, 3344, 4145-4183)
- A-277 Folder entitled "Stanley Returns." (PMI 1616-1672)
- A-278 Email string and attached one page report: Target POS Sales YTD and K-Mart
YTD. (PMI 5666-68.)

- 1 A-279 PMI press release, 7/24/03. (PMI 4894-4895)
- 2 A-280 PMI Trend Perspective 2004. (PMI 4896)
- 3 A-281 Stanley Packaging and Brand Guidelines. (PMI 4898-4914).
- 4 A-282 Product carton and packaging concepts / Hornall Anderson Design Works. (PMI 4931-4963)
- 5 A-283 Vacuum Bottle Market Study Sporting Goods Chains – September 2004. (PMI 4915-4930)
- 6 A-284 Email from Lane Marketing to Tami Fujii, attaching press release, 7/24/03. (PMI 5007-5009)
- 7 A-285 Email from Lane Marketing attaching PMI PR Recap Presentation, 8/25/03. (PMI 5010-5025)
- 8 A-286 Email string between Tami Fujii and Ryan Leverenz, 8/18/03. (PMI 5026-5027))
- 9 A-287 Email from Leverenz to Fujii, 8/14/03. (PMI 5032-5034)
- 10 A-288 Email from Leverenz to Fujii, 8/12/03. (PMI 5035)
- 11 A-289 Email from Wendy Lane, 7/21/03. (PMI 5038-5039)
- 12 A-290 Email from Paterson to Fujii re attached final press releases for printing, 2/25/03. (PMI 5082-5086)
- 13 A-291 Email from Leverenz transmitting final version of attached press release, 1/7/03. (PMI 5112-15)
- 14 A-292 Email string between Leverenz and Fujii re: comments on draft press release, 1/7/03. (PMI 5116-5119)
- 15 A-293 Email from Leverenz to Fujii re attached draft documents, 1/02/03. (PMI 5120-5126)
- 16 A-294 Color copies of current and historical product cartons for Stanley Classic Beverage Bottle produced by PMI (no bates nos.)
- 17 A-295 Stanley Quart Unit and \$ Sales – 1997 to 2003. (PMI 5712)
- 18 A-296 Stanley Wide Mouth Sales – 1997 to 2003. (PMI 5713)
- 19 A-297 2001 Customer Purchases of Stanley Blue Sports Bottle by Units by \$ by Month (PMI 5714)
- 20 A-298 2002 Estimated sales data for Stanley Blue Sports Bottle (PMI 5715)
- 21 A-299 Unit and Dollar Sales by customer, 6/02-5/04. (PMI 5767-5826)
- 22 A-300 Sales data, 6/02-12/02. (PMI 5871-72)
- 23 A-301 2002 History JaSS \$\$ detail.xls. (96-page print-out from CD-ROM produced as PMI 5876)
- 24 A-302 2002 YEARENDALADS.xls 1-20-04.xls. (31-page print-out from CD-ROM produced as PMI 5876)
- 25 A-303 Stanley 2001 Sales f#194EAA.xls. (57-page print-out from CD-ROM produced as PMI 5876)
- 97-98 Stanley.XLS from GW 12-16-03.XLS. (118-page print-out from CD-ROM produced as PMI 5692)
- 2003 Aladdin with Old Sales Codes.2-3-03.xls. (3-page print-out from CD-ROM produced as PMI 5692)
- 2002 Stanley Bottle Sales.xls. (3-page print-out from CD-ROM produced as PMI 5692)
- 2001 Stanley Sales by Customer by product 10-15-03 – 12-16-03.xls. (8-page print-out from CD-ROM produced as PMI 5692)

- 1 A-308 2001 Stanley Sales 12-16-03.xls. (58-page print-out from CD-ROM produced as PMI 5692)
- 2 A-309 2000 Stanley Bottle Sales.xls from KR Pivot 12-16-03.xls. (646-page print-out from CD-ROM produced as PMI 5692)
- 3 A-310 Email dated 12/5/02 (PMI 4238)
- 4 A-311 Email string re: underperforming items at Target, 10/22/02. (PMI 4253-56)
- 5 A-312 Internal Email string dated 9/26/02. (PMI 4273-75)
- 6 A-313 Internal Email string, 9/26/02. (PMI 4276-78)
- 7 A-314 Email from Bross, 9/25/02. (PMI 4283-4284)
- 8 A-315 Email from Donnelly, 9/1/02 with attached analysis of strategy for competition between Stanley, Rock and Work bottles. (PMI 4286-90)
- 9 A-316 Email from Donnelly, 9/6/02. (PMI 4291-92)
- 10 A-317 Email from P. La Greca, 05/27/03. (PMI 4295)
- 11 A-318 Internal Email string, 5/19/03. (PMI 4299-4301)
- 12 A-319 YTD POS Sales Kmart and Target. (PMI 4298)
- 13 A-320 Photos of Thermos Work Bottle cartons and Stanley cartons. (PMI 4304-08)
- 14 A-321 Sales presentation of Stanley products and their features. (PMI 4317-36)
- 15 A-322 Email from Donnelly, 2/9/04. (PMI 4337-38)
- 16 A-323 Email from Donnelly, 11/20/02. (PMI 4367-68.)
- 17 A-324 Internal Emails, 10/09/02. (PMI 4370-71).
- 18 A-325 Email from Donnelly, 5/24/02. (PMI 4376-77)
- 19 A-326 E-mail from Donnelly, 9/6/02. (PMI 4375)
- 20 A-327 Retail Competitive Review, 4/26/02. (PMI 4780-85.)
- 21 A-328 Second Amendment to Asset Purchase Agreement between PMI and Aladdin, and Restated Bill of Sale, 8/14/04. (PMI 5889-93)
- 22 A-329 Email, Christopher Doyle to Mike Bross re: Stanley – Aladdin Acquisition, 12/18/01. (DPR 3)
- 23 A-330 Facsimile press release, 12/20/01. (DPR 6)
- 24 A-331 PMI – Q&A re acquisition of Aladdin and Stanley. (DPR 9-14)
- 25 A-332 Email, Christopher Doyle to Tami Fujii and Mike Bross, 12/19/01. (DPR 16-17)
- A-333 Memo re Housewares Trade Show. (DPR 18-19)
- A-334 Wilke comments with HW notes. (DPR 24)
- A-335 Email, Christopher Doyle to Tami Fujii and others re: HomeWorld Business-- 12/20/02, 1/8/02. (DPR 25-26)
- A-336 Note from Christopher Dole to Mike Bross and Tami Fujii forwarding copy of Housewares article, 2/19/02. (DPR 27)
- A-337 News reports re: PMI acquisition of Aladdin and Stanley. (DPR 29-31, 33-35)
- A-338 “The tough questions.” (DPR 47)
- A-339 Press release points outline. (DPR 57)
- A-340 Email, Christopher Doyle to Tami Fujii, 3/29/02. (DPR 84-85)
- A-341 HW note “4/12/02 – Tami-PMI.” (DPR 86)
- A-342 Email, Tami Fujii to Christopher Doyle, 3/14/02. (DPR 89)
- A-343 Email, Carol Schreitmuller to Tami Fujii, 1/9/02. (DPR 137-38)
- A-344 Press release, “PMI Creates New Aladdin Division,” 4/18/02. (DPR 163-64)
- A-345 Handwritten Notes, 3/22/02. (DPR 178-79)
- A-346 CD-ROM produced by Doyle Public Relations. (DPR 295)

- 1 A-347 MiGo Spring 2002 Catalog. (DPR 326-29)
- A-348 MiGo Brand Road Map, 2000-2005. (DPR 377-96)
- 2 A-349 DPR/PMI "Snapshot" overview. (DPR 418-32)
- A-350 PMI/DPR Proposal. (DPR 434-40)
- 3 A-351 Consumer/PR Calendar. (DPR 454)
- A-352 Popular Mechanics piece. (LJM 122-23)
- 4 A-353 PMI press release, 7/24/03. (LJM 164-65)
- A-354 PMI company profile. (LJM 183)
- 5 A-355 Aladdin Copy/Image Use (LJM 194-97)
- A-356 PMI July event and follow-up notes (LJM 258-59)
- 6 A-357 Bolt and Classic Q&A (LJM 262)
- 7 A-358 Letter from Lane, 8/14/03 (LJM 357)
- A-359 Letter from Fujii to Lane, 11/14/03 (LJM 610-12)
- 8 A-360 Chart, 10/25/02 (LJM 696)
- A-361 Draft PMI Marketing Plan (LJM 699-705)
- 9 A-362 PMI press release, 1/03 (LJM 716-18)
- 10 A-363 PMI Marketing Communications Consultation (LJM 788-89)
- A-364 PMI Marketing Communications Plan (LJM 817-33)
- 11 A-365 2004 Aladdin Marketing Communications Plan (LJM 888-93)
- A-366 PMI Marketing Communications Plan (LJM 904)
- 12 A-367 Consumer e-mails (LJM 1049-59)
- A-368 Thermos Vacuum Ware Category Objectives and Strategy. (M 62-82)
- 13 A-369 Color copy of Product Display: Stainless Steel Insulated Bottles. (Produced in color by Meridian, numbered by PMI's counsel as M 26-27.)
- 14 A-370 Color copy of HFN Brand Survey published in 10/6/03 edition of HFN News. (Thermos 8083-8088)
- 15 A-371 Color copy of HFN Brand Survey published in 9/20/99 edition of HFN News. (Thermos 8089-8093)
- 16 A-372 Color copy of HFN Brand Survey published in 12/10/01 edition of HFN News. (Thermos 8094-8082)
- 17 A-373 PMI's website (www.pmiseattle.com)
- 18 A-374 Website pages re vacuum bottles, 1/31/05. (Thermos 7769-7783)
- A-375 Sample of Thermos Rock bottle.
- 19 A-376 Sample of Aladdin Rugged American bottle.
- 20 A-377 Sample of Thermos Stainless Steel bottle 2570.
- A-378 Sample of Thermos Wide Mouth Food Jar 2330.
- 21 A-379 Sample of Thermos Food Jar 2300.
- A-380 Sample of Thermos Add-A-Cup Stainless Steel bottle 2580.
- 22 A-381 Sample of Thermos Stainless Steel bottle 2550.
- A-382 Sample of Thermos Large Capacity Stainless Steel bottle.
- 23 A-383 Sample of Thermos Contour beverage bottle 60100A.
- A-384 Sample of Thermos Nissan Stainless Steel Vacuum Insulated Wide Mouth bottle.
- 24 A-385 Sample of Thermos Briefcase bottle 2410.
- 25 A-386 Sample of Thermos Wide Mouth Food Jar 2310L.
- A-387 Sample of Nissan Stainless camouflage bottle.
- A-388 Sample of Thermos Nissan Stainless Steel Vacuum bottle NCD-10.

1 A-389 Sample of Thermos Stainless Steel bottle 2590.
 A-390 Sample of Thermos Wide Mouth Food Jar 2340.
 2 A-391 Sample of Thermos Food Jar 7021W.
 A-392 Sample of Thermos Add-A-Cup Beverage bottle 3410.
 3 A-393 Sample of Thermos Add-A-Cup Beverage bottle 3610BLW4.
 A-394 Sample of Nissan Stainless bottle HSK1000HB/6.
 4 A-395 Color copy of Exhibit 9 to Expert Report of Cooper Woodring.
 A-396 Retail Competitive Review, 4/26/02. (PMI 4780)
 5 A-397 "Menard's Attack Plan" file. (Thermos 5504-06)
 A-398 Stanley Killer Critical Path. (Thermos 6910)
 6 A-399 Photos of Thermos 2570 and Rock bottle with hammertone finishes. (Thermos
 7 6569-70)
 A-400 Work Series sell sheets. (Thermos 6604-05)
 8 A-401 Thermos Vacuumware Products Market Review, June 2002. (Thermos 6643-44)
 A-402 Thermos Mid-Year Sales Meeting, June 2002. (Thermos 6648-61)
 9 A-403 Press release, 4/26/02. (Thermos 6673)
 10 A-404 Handwritten notes re weights of Stanley and Thermos Work bottles. (Thermos
 11 6706)
 A-405 E-mails re Rock vs Stanley, 12/17-12/21/01. (Thermos 6822-23)
 A-406 Beverage bottle design drawings. (Thermos 6853)
 12 A-407 Robert Harris Deposition Exhibits
 A-408 Aladdin Industries/Fred Meyer Deposition Exhibits
 13 A-409 Documents produced by David Nolte (Thermos 7533-7686)
 A-410 Thermos 30(b)(6) Dep. Ex. 509
 14 A-411 Thermos 30(b)(6) Dep. Ex. 516
 15 A-412 Thermos 30(b)(6) Dep. Ex. 517
 A-413 Thermos 30(b)(6) Dep. Ex. 518
 16 A-414 Lane Marketing 30(b)(6) Dep. Ex. 4
 A-415 Lane Marketing 30(b)(6) Dep. Ex. 5

ACTION BY THE COURT

- 18 (a) This case is scheduled for trial before a jury on March 21, 2005, at 1:30 p.m.
 19 (b) Trial briefs shall be submitted to the Court on or before March 14, 2005.
 20 (c) Jury instructions requested by either party shall be submitted to the Court on or before
 21 March 14, 2005. Suggested questions of either party to be asked of the jury by the Court on voir
 22 dire shall be submitted to the Court on or before March 14, 2005.

23 This order has been approved by the parties as evidenced by the signature of their
 24 counsel. This order shall control the subsequent course of the action unless modified by a
 25 subsequent order of the Court pursuant to agreement of the parties or to prevent manifest

1 injustice.

2 DATED this _____ day of March, 2005.

3
4 _____
5 JAMES L. ROBART
UNITED STATES DISTRICT JUDGE

6 FORM APPROVED:

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